

people who have earned them. Let's make sure that farms that have stayed in the family for generations aren't sold off due to a bad tax policy. Let's end the outrageous practice of punishing thrift and financial security. Let's end the bias against savings and capital formation. Let's encourage saving, investment, and sound, life-long financial management which can provide for a family past a single generation. Let's repeal the estate tax and empower our Nation's families.

STATEMENT ON THE INTRODUCTION OF THE SOFTWARE EXPORT EQUITY ACT

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. DUNN. Mr. Speaker, on this, the first day of the 105th Congress, I introduce the Software Export Equity Act and urge my colleagues to support its swift enactment. The Software Export Equity Act enjoys tremendous bipartisan support as demonstrated by the members that join me as original cosponsors, Messrs. MATSUI, HERGER, JEFFERSON, CRANE, NEAL of Massachusetts, MCCRERY, McDERMOTT, ENGLISH of Pennsylvania, and WELLER.

Today, the U.S. software industry is a vital and growing part of the U.S. economy, exporting more than \$26 billion worth of software annually. U.S. software companies perform a majority of this development work here in the United States. This measure will do more to ensure the competitiveness of the U.S. software industry worldwide than any other single legislative change we can enact.

Congress enacted the FSC rules to assist U.S. exporters in competing with products made in other countries which have more favorable tax rules for exports. The FSC statute was carefully crafted to ensure that only the value-added job creating activity qualified for FSC benefits. When the statute was enacted in 1971, the U.S. software industry did not exist. However, due to a narrow IRS interpretation of the FSC rules, the U.S. software industry is the only U.S. industry that does not generally receive this export incentive. Nearly every other U.S. manufactured product—from airplanes to toothpaste—qualify for FSC benefits. Although the Treasury Department recognized the inconsistency in providing FSC benefits to licenses of films, tapes and records, all industries that were in existence when the law was created, but not to licenses of software, they stated their belief that this problem needed to be addressed in legislation rather than by regulation. Treasury has further stated their strong support for legislation to extend FSC benefits for licenses of computer software.

To illustrate the inequitable IRS interpretation of FSC rules with regard to software exports, suppose we have two CD ROM's—one containing a musical recording, the other containing a multimedia software product that also provides music. If the master of the musical recording is exported with a right to reproduce it overseas, the export qualifies for FSC benefits. If the master of the computer software is exported with a right to reproduce it overseas, the export does not qualify for FSC benefits, a result that makes no sense from either a

policy or practical perspective. The ability to export software, accompanied by a right to reproduce that software in the local market, is essential to the way the software industry does business. Denying the benefits of the FSC rules to software exported through established industry distribution networks poses an impediment to the competitiveness of U.S. manufactured software.

The United States is currently the world leader in software development, employing hundreds of thousands of individuals in high-wage, high-skilled U.S. jobs. Much of the expansion of the industry is due to the growth of exports. The software industry, like other U.S. exports, needs FSC benefits to remain competitive and keep U.S. jobs here at home. FSC benefits are extremely important in encouraging small and medium-sized software companies to enter the export market by helping them equalize the cost of exporting. In addition, FSC benefits are needed to help keep high-paying software development jobs in the United States at a time when foreign governments are actively soliciting software companies to move those jobs to their countries. I do not propose any special or unique treatment, nor seek any new or special tax benefit. All that I propose in this measure is fair treatment under existing law.

If the goal of this Congress is to pass legislation promoting economic opportunity and growth in America, then common sense dictates that we enact the Software Export Equity Act.

THE FAIR TRADE OPPORTUNITIES ACT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1996

Mr. BEREUTER. Mr. Speaker, America's precious trade leverage is being eroded by outdated trade laws which undermine our Government's credibility and provide little incentive for countries to open their markets. These laws desperately need to be revised. Today, I have introduced legislation, the Fair Trade Opportunities Act, which abolishes the MFN trade status process while giving the President of the United States broad but flexible authority to raise tariffs on those countries which are not members of the World Trade Organization or which still prohibit emigration.

American companies and workers deserve the right to compete for markets and consumers throughout the world. They deserve our best effort to pry open foreign markets so they can freely sell their products and services. Bluffing and posturing during Congress' annual MFN process does nothing to help them. Giving countries which are not members of the World Trade Organization a "free-ride" to our own markets without reciprocal benefits is not fair to American workers.

The Fair Trade Opportunities Act responds to post-cold war realities by restoring U.S. trade sanction credibility and providing the President with the tools to open foreign markets. It should be considered in the 105th Congress if the U.S. Government hopes to reclaim America's precious trade leverage and give our export companies and workers equitable access to foreign markets.

THE FAIR TRADE OPPORTUNITIES ACT

Introduced by Representative Doug Bereuter (R-NE) on January 7, 1996.—This legislation was introduced in the last few days of the 104th Congress as the Fair Trade Opportunities Act (H.R. 4289). It was slightly modified, and then reintroduced on the first day of the 105th Congress.

Eliminates outdated U.S. trade law distinction between "market" and "nonmarket" economies and replaces it with a more appropriate distinction in the post-Cold War Era between member and nonmember countries of the World Trade Organization (WTO).—Under current U.S. trade law, market economy countries receive normal tariff status automatically and nonmarket economy countries must go through an annual Jackson-Vanik certification process. The Fair Trade Opportunities Act replaces this Cold War Era distinction with two categories of tariffs—normal tariff status for WTO members and potential "snap-back" tariffs for non-WTO countries.

Abolishes annual Most-Favored Nation (MFN) process for 17 countries which require annual waiver or certification of compliance with Jackson-Vanik requirements.—The President will no longer have to certify that these 17 countries meet Jackson-Vanik requirements before they are entitled to MFN or normal tariff status. Also, Congress' self-imposed, annual review of the President's certification is eliminated. [Congress retains Constitutional right (Article I, Section 8) to raise tariffs on any country at any time.]

Abolishes Smoot-Hawley (Column #2) tariffs for all countries except those countries which have not concluded commercial agreements with the United States (i.e. Vietnam).—Realistically, these Smoot-Hawley tariffs are only imposed on pariah, bad-actor states, or countries which do not have commercial agreements with the United States. For political, economic, and domestic commercial reasons, threats to impose Smoot-Hawley tariffs on other countries are hollow and not taken seriously by foreign governments. Despite the rancorous debates in Congress over the extension of MFN to some countries, Congress is also quite unlikely to impose Smoot-Hawley tariffs because of the harm it would inflict on U.S. companies and workers.

Replaces Smoot-Hawley tariffs with broad and flexible Presidential authority to raise tariffs (snap-back) on countries which are not members of WTO.—On a one-time basis and within six-months of the enactment of the legislation, the President is required to determine if non-WTO countries are "not according adequate trade benefits" to the United States. If the President makes such a finding, then the President shall impose snap-back tariffs on that country six-months after the determination. In imposing snap-back tariffs, the President has wide discretion to determine both the amount of the tariff and on which categories of products the snap-back tariffs will be imposed. However, under no circumstances can the President exceed the legislation's snap-back tariff ceiling which is the pre-Uruguay round MFN tariff rates, i.e., the Column #1 tariff rates in effect on December 31, 1994.

Enhances United States Trade Representative's negotiating leverage with countries which are not WTO members and provides a strong incentive for those countries to liberalize their trade laws and practices and to improve their WTO accession offers.—Between enactment of the legislation and the President's one-time, six-month determination and twelve-month imposition of snap-back tariffs, this legislation gives those non-WTO countries time to modify their trade regimes so as to give American exporters a fair