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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable RICHARD BURR, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal and dependable Creator, who harmonized the world with seasons and climates, sowing and reaping, color and fragrance, accept our grateful praise. Thank You for sustaining our lives in each season of living, for protecting us from dangers and for giving us Your peace.

Thank You for the members of our Government legislative branch, for their efforts to make our world better. As they plant seeds of freedom, prepare them for an abundant harvest. Remind them daily that You surround the upright with the shield of Your favor.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BURR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 27, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BURR, a Sen-

ator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BURR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today we will have a period of morning business until 11 a.m. At 11, we will resume consideration of the flag antidesecration resolution, which we began debate on yesterday. The time until 2:15 will be for debate only on the flag resolution.

Under the order from last night, we have controlled time, and Senators who would like to speak should consult with the managers and get in the queue.

Also, today we will recess for the weekly policy luncheons from 12:30 until 2:15 p.m. We will announce the voting schedule later today. However, we will not have any votes scheduled prior to the recess for the policy luncheons.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the first 15 minutes of time under the control of the majority leader or his designee, the next 15 minutes of time

under the control of the Democratic leader or his designee, and the remaining time will be equally divided.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask for 15 minutes under the Democratic time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EUROPEAN SUBSIDIES

Mrs. MURRAY. Mr. President, in the coming weeks, we are entering an important crossroad in the future of commercial aerospace. I wish to explain this morning what is at stake for our country and for American workers.

Down one road, American workers will be left to fight for their jobs with one hand tied behind their backs. They will face unfair competition, and our economy and our future could suffer. Down the other road, our Government will make it clear that we will fight for fair trade, and our economy and our workers will win as a result. That is the crossroad we are approaching, and which path we take will be determined by two things: whether Europe decides to provide illegal subsidies to Airbus and EADS and whether the U.S. Government works aggressively to keep that from happening.

For decades, Europe has provided subsidies to prop up Airbus and its parent company EADS. Those subsidies have created an uneven playing field and have led to tens of thousands of layoffs in the United States.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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In the past few years, the United States has stood up to Europe, and I have been proud to work with the Bush administration in that effort, first under U.S. Trade Representative Robert Zoellick, then under Rob Portman and now, of course, under USTR Susan Schwab. We have demanded that Europe stop the subsidies and play by the rules.

With the threat of a WTO trade case, we got the Europeans to the negotiating table, and I was hopeful that we could make progress. But over the past few months, Airbus and EADS have been in a tailspin over unsuccessful planes, production delays, and management scandals. Airbus is finally beginning to see how difficult it is to compete in the marketplace without the cushion of government subsidies. And it is floundering.

But now, rather than letting Airbus compete on its own in the marketplace, European governments seem poised once again to rescue Airbus with market-distorting subsidies.

If we want to keep a strong aerospace industry in America, we cannot let that happen. Every time the European government underwrites Airbus with subsidies, American workers get pink slips.

If we want to lead the world in commercial aerospace, our message to Europe must be strong and clear: No more illegal subsidies to prop up Airbus. Airbus must compete in the marketplace just like everyone else.

I first sounded the alarm on this important issue in March of 2004 when I spoke about my concerns here on the Senate floor. For those who have not been following the debate, I wish to provide some background.

Only two companies in the world make large passenger airplanes: the Boeing company, with its commercial air operation headquartered in Renton, WA, and Airbus, which is headquartered in Toulouse, France. Airbus is a division of the European Aeronautics Defense and Space Company, known as EADS.

The distance between Airbus and Boeing's headquarters is about as big as the disparity between how the United States and Europe view the commercial aerospace industry.

For us in America, commercial aerospace is a private industry, one that must respond to the needs of the marketplace and the demands of its shareholders. It is a difficult business, and many times manufacturers such as Boeing "bet the company" on a new airplane.

In Europe, on the other hand, commercial aerospace is viewed as a job-creation program. Airbus has been shielded from the dangers of the marketplace by decades of government subsidies. In fact, Europe doesn't seem to care if Airbus loses money as long as it produces jobs and those jobs come at the expense of American workers.

The history of Airbus and EADS is a history of government subsidies that

have sheltered it from competition and real pressures of the marketplace. It has allowed Airbus to develop new aircraft with virtually no risk. This government assistance takes many forms, including launch subsidies, research subsidies, facilities subsidies, and supplier subsidies. These subsidies create an uneven playing field and allow Airbus to do things that normal private companies cannot afford to do. Because of those subsidies, Airbus has grown to become a market power without assuming any of the financial risk and accountability U.S. firms have to contend with every day.

As a result of this government support, Airbus has been able to erode Boeing's market share. Airbus's market share was once in the teens, but today Airbus claims to supply more than 50 percent of the industry.

But European government support of Airbus doesn't stop there. It includes everything from bribes to threats. There are reports of state airlines being promised landing rights at European airports if they buy Airbus planes, and we have seen countries threatened that they will not be let into the European Union unless they buy Airbus planes. There are reports of Airbus using deep discounts and guaranteeing to airlines that Airbus planes will hold their value.

To date, Airbus has received more than \$15 billion in launch aid. But despite this massive infusion of government cash, Airbus and EADS are still hemorrhaging money and are undergoing a crisis in leadership at the highest levels. In fact, if anybody was to scan the newspapers this week, they could read about any number of problems Airbus and EADS have been confronted with. The Airbus A350 model has been widely condemned by major airline purchasers. It requires an expensive redesign, which is estimated to now cost between \$9 billion and \$10 billion. The A380 mega-jetliner, which Airbus spent more than \$13 billion on developing, has secured only a small list of customers. Now it is plagued by delivery delays which could result in canceled orders and financial penalties for Airbus. In fact, according to recent reports, Airbus is facing the possible loss of orders worth more than \$5 billion. The delays could reduce Airbus's annual earnings by \$630 million between 2007 and 2010.

EADS also has a huge liability on its hands. It needs to buy out BAE Systems' share of Airbus, which is estimated to cost about \$4 billion. On top of all of that, the co-chief executive of EADS, Noel Forgeard, is under investigation for insider trading.

By all accounts, Airbus is struggling. It is also losing credibility with its customers. In fact, when news broke about the A380's production delay, Singapore Airlines cast a no-confidence vote in Airbus by ordering 20 Boeing 787 Dreamliners.

One important customer who is taking notice is the U.S. Department of

Defense. With Airbus's financial house of cards on the verge of collapse and no current U.S. manufacturing presence, it is becoming clear that EADS will not be able to give the U.S. Air Force the tanker of the future.

I am pleased that the Air Force has asked the right questions. In its request for information for the tanker contract, the Air Force asked potential bidders to provide them with information about launch aid and subsidies, including details about any government support, tax breaks, debt forgiveness, or loans with preferential terms they might have received. The Air Force clearly understands the need for transparency and a level playing field.

Any new subsidies to Airbus for tankers or other programs should end once and for all Airbus's campaign to access the U.S. Treasury.

To protect taxpayers and national security, the Air Force must exercise extreme caution if it continues to consider an Airbus tanker proposal.

As many of my colleagues know, my home State of Washington has a very proud and long history of aerospace leadership. On July 15, 1916, Bill Boeing started his airplane company in Seattle, WA, and since that day, Boeing and Washington State have shared the ups and downs of the commercial aerospace industry. In fact, just a few years ago, Boeing found itself struggling to keep up with Airbus, but through the sacrifice and hard work of more than 62,000 Boeing employees in Washington State and many more around the country, the company pulled itself up by its bootstraps. It recovered to once again evenly share the marketplace with Airbus, and it did so by producing a plane, the 787, which was just what the marketplace wanted.

Airbus, on the other hand, ignored the market's demand and produced a plane that few people wanted, and now they are being punished by the marketplace for their mistakes. But rather than take their lumps, they are likely to seek an illegal government bailout that would negate the hard work and sacrifice of Boeing employees.

Recently, an EADS spokesman called launch aid "indispensable" and said, "Launch aid is the only available system right now" to deal with Airbus's floundering market and design problems. How can aerospace workers in America compete with a competitor that never has to face the consequences for its failures?

Last week, President Bush met with EU leaders at a summit. Before his trip, I wrote to the President and urged him to raise the issue with European leaders. Time is running out. We are quickly approaching the Farnborough Airshow on July 17 when European Ministers are expected to decide whether to provide EADS with more launch aid.

I have supported this administration's willingness to go the distance at the World Trade Organization in its fight for fair markets. They stood up

for American aerospace workers after it became clear that negotiations with the Europeans were going nowhere. As a result, the WTO is now considering the subsidies case through its dispute settlement body.

The Senate is on record against Airbus subsidies. On April 11, 2005, the Senate unanimously passed S. Con. Res. 25. That is a resolution which called for European governments to reject launch aid for the A350 and for President Bush to take any action that he “considers appropriate to protect the interests of the United States in fair competition in the large commercial aircraft market.” The resolution also specifically encouraged the U.S. Trade Representative to file a WTO case unless the EU eliminates launch aid for the A350 and all future models.

The production of large civilian aircraft is now a mature industry in both the United States and Europe. It is now time that market forces—market forces, not government aid—determine the future course of this industry.

That crossroad I mentioned is coming up on us quickly. One road will leave American workers in a fight for their jobs, with the game stacked against them. The other road will give us a fair playing field where American workers can win through their hard work and American ingenuity. I hope for our country's future that we choose the right course, and it begins by sending a clear message from our government to Europe that the United States will not tolerate another round of illegal subsidies that kill American jobs. The clock is running, and the choice is ours.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FLAG DESECRATION CONSTITUTIONAL AMENDMENT

Mr. JEFFORDS. Mr. President, I rise today in opposition to a constitutional amendment that would ban flag burning and other acts of desecration.

As I said during the recent debate on the Federal marriage amendment, I am very troubled by priorities put forth by the Senate majority. Our domestic programs are facing serious budget cuts. Millions of Americans are without health insurance. Gas prices are out of control while our Nation's reliance on foreign oil shows no sign of easing. And we still have no strategy for the war in Iraq. However, the Senate leadership has chosen to spend a portion of our limited days in session to bring up a constitutional amendment to ban flag burning.

Once again, we seem to be searching for a solution in need of a problem, and I am afraid the reason we are spending time on this topic is only for political gain.

As a veteran with 30 years in the U.S. Navy and the U.S. Naval Reserve, I know the pride that members of our Armed Forces feel when they see our flag, wherever they may be in the world. I share the great respect that Vermonters and Americans have for that symbol. I personally detest the notion that anyone would choose to burn a flag as a form of self-expression.

Members of the military put their lives on the line every day to defend the rights guaranteed by the U.S. Constitution. It is disrespectful of these sacrifices to desecrate the flag.

However, in my opinion, our commitment to free speech must be strong enough to protect the rights of those who express unpopular ideas or who choose such a distasteful means of expression. This concept is at the core of what we stand for as Americans.

Mr. President, I have given this constitutional amendment a great deal of thought. I must continue to oppose this amendment because I do not think we should amend the Bill of Rights unless our basic values as a nation are seriously threatened. In my view, a few incidents of flag burning, as upsetting as they may be, do not meet this high standard.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, it is my understanding we are in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mrs. FEINSTEIN. But that it would be acceptable for me to speak on the pending business, which is the flag amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FLAG PROTECTION AMENDMENT

Mrs. FEINSTEIN. Mr. President, I rise as the main Democratic sponsor of this amendment. I have given this a lot of thought for a long time. I believe what we have before us is language that is essentially content neutral. It is on conduct—not speech. I will make that argument later on in my remarks, but I begin my remarks with how I came to believe that the American flag is something very special.

For those of us who are westerners, the Pacific battles of World War II had very special significance.

Reporters were not embedded, there was no television coverage, and the war in the Pacific was terrible—*island battle after island battle*—the death march at Guadalcanal, Tarawa, and onward.

On the morning of February 24, 1945, I was a 12-year-old. I picked up a copy of the San Francisco Chronicle. There on the cover was the now iconic photograph done by a Chronicle photographer by the name of Joe Rosenthal, and it was a photograph of U.S. marines struggling to raise Old Glory on a promontory, a rocky promontory above Iwo Jima.

For me—at that time as a 12-year-old—and for the Nation, the photo was a bolt of electricity that boosted morale amidst the brutal suffering of the Pacific campaign.

The war was based on such solid ground and victory was so hard-pressed that when the flag unfurled on the rocky promontory on Iwo Jima, its symbolism of everything courageous about my country was etched into my mind for all time. This photo cemented my views of the flag for all time.

In a sense, our flag is the physical fabric of our society, knitting together disparate peoples from distant lands, uniting us in a common bond, not just of individual liberty but also of responsibility to one another.

Supreme Court Justice Frankfurter called the flag “The symbol of our national life.” I, too, have always looked at the flag as the symbol of our democracy, our shared values, our commitment to justice, our remembrance to those who have sacrificed to defend these principles.

For our veterans, the flag represents the democracy and freedom they fought so hard to protect. Today there are almost 300,000 troops serving overseas, putting their lives on the line every day to fight for the fundamental principles that our flag symbolizes.

The flag's design carries our history. My proudest possession is a 13-star flag. When you look at this flag, now faded and worn, you see the detail of the 200-year-old hand stitching—and the significance of every star and stripe.

The colors were chosen at the Second Continental Congress in 1777. We all know them well: Red for heartiness and courage; white for purity and innocence; blue for vigilance, perseverance, and justice. Even the number of stripes has meaning—13 for 13 colonies.

Our flag is unique not only in the hearts and minds of Americans, but in our laws and customs as well. No other emblem or symbol in our Nation carries with it such a specific code of conduct and protocol in its display and handling.

For example, Federal law specifically directs that the flag should never be displayed with its union down, except as a signal of dire distress or in instances of extreme danger to life or property.

The U.S. flag should never touch anything beneath it: neither ground, floor,