

energy security as well as our Nation's national security.

The administration strongly supports the passage of this bill and the language is not controversial. However, as chairman of the Energy Committee, we have been trying to clear this for 2 weeks now. We continue to have, unfortunately, objections from our friends on the other side of the aisle, the Democrats. But I know it is not the content of S. 1888 that they are objecting to. So let me make the situation very clear. I appeal to my friend from Georgia, the manager of the bill, that the authorization for two vital energy security measures, the Strategic Petroleum Reserve and the U.S. participation in the International Energy Agency are due to expire at the end of this month.

S. 1888 simply extends those two vital authorities through September, until a more comprehensive reauthorization bill can be enacted. So if we do not pass S. 1888 by the time we recess, the President will not have the authority to withdraw oil from the Strategic Petroleum Reserve if an energy emergency occurs in this country. Further, our Government will not have the authority to participate in International Energy Agency emergency actions in an international energy emergency.

It has been evident in the last few days, the significance of our dependence on Mideast oil, and the fact we are willing to have United States troops in Saudi Arabia to ensure that peace is maintained and that energy from that part of the world flows. Currently we are about 51.4 percent dependent on imported oil. It is estimated by the Department of Energy that by the year 2000, roughly 4 years from now, that will increase up to about 66 percent.

Here we are with our authority to operate the Strategic Petroleum Reserve in jeopardy. There will be no antitrust exemption available to our private oil companies to allow them to cooperate with the International Energy Agency and our Government to respond to the crisis. Although it appears to be an easy one for some to simply disregard these dangers, I again indicate that recent events have underscored exactly how precarious the Nation's energy security is. As I have indicated, the bombing in Saudi Arabia is further evidence of the instability of the region that we rely on to supply the oil that keeps the Nation moving.

As proven during the Persian Gulf war, the stabilizing effect of a Strategic Petroleum Reserve drawdown far outstrips the volume of oil sold. The simple fact that the Strategic Petroleum Reserve is available can have a calming influence on oil markets.

There are those, myself included, who were dismayed to some extent by a recent trend toward use the SPR as a piggy bank to pay for other programs. We will continue to debate the long-term prospects for the SPR in the future. In any case, we have already invested a large amount of taxpayer

money in the stockpiles. The oil is there, ready to dampen the effects of an energy emergency on our economy. However, if we do not ensure we have the authority to use the oil when it is needed, we will have thrown tax dollars away. So, as I stand here before you, I implore my colleagues to release the hold and allow this simple extension to take place in the interests of our national security and our national energy security. If we do not ensure that there is authority to use the oil when it is needed, it simply will be to no avail.

So, as I stated earlier, the content of this legislation is noncontroversial. I understand the Department of Energy has been strongly urging Members on the other side to remove their objection. It is clear the objection from a few Democratic Members has nothing to do with the substance of this bill. It is intended only to gain leverage on unrelated issues.

Some of my fellow Republican Senators have problems with other parts of EPCA that they would like to raise on the larger reauthorization legislation. However, they have acted in concert to agree to allow this bill to proceed without amendment simply because of the strategic significance of it.

So I think it is reckless, I think it is irresponsible to knowingly place our Nation's energy security at risk, to try to gain some small political advantage. American service men and women, as we have seen time and time again, have given their lives to ensure our Nation's energy security. We have seen that with the tragic bombing in Saudi Arabia the other day. Make no mistake about it, part of our presence there is to ensure the supply of oil for the Western World would continue uninterrupted. We fought a war over that. We tried to put Saddam Hussein in a cage. So I think it is shameful that today we would hold this legislation hostage to a political will.

I encourage my colleagues to allow the immediate passage of S. 1888. I think it certainly is germane to the defense matters we are discussing here on the floor tonight, because you cannot move military or defense capability if you do not have the oil availability. So I encourage my colleagues to address their attention to the fact that, unless we get this authority, SPR will simply be unable to be utilized if there is an emergency.

I thank the Chair and yield the floor.
The PRESIDING OFFICER. The Senator from Maine.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

AMENDMENT NO. 4367

The Senate continued with the consideration of the bill.

Mr. COHEN. Mr. President, there has been a good deal of discussion this evening about the amendment offered by my colleague from Georgia, an amendment which I cosponsored. I know it has generated considerable

controversy because some have questioned the consequences of and even the motivation for such an amendment at this time. But I would just like to indicate that I think it is important that we try, as best we can, to return to a bipartisan approach to foreign policy.

I would include within foreign policy our defense policy as well. This is something that, when I came to the Senate in 1979, we assumed would be the policy of this body—at least to try to forge a bipartisan coalition that would support foreign policy initiatives and certainly our defense policy, knowing unless we are united, we can only cause confusion, certainly within the country, and confusion amongst our allies as well.

The issue of NATO expansion is not new. We have been talking about it for some time. Yet suddenly, by virtue of the submission of this amendment, some of my colleagues assumed there may be some political agenda, some hidden agenda on the part of my colleague from Georgia and the cosponsors that would have implications for our Presidential candidate.

Let me indicate from the very beginning, I favor the expansion of NATO. I also support the candidacy of Bob Dole. I hope he becomes our next President. I know that he feels very strongly that NATO should be expanded. I intend to lend whatever support I can to his candidacy, as I have indicated.

But I believe that before we make a decision on enlargement, which carry some fairly serious consequences, we ought to know a number of things. We ought to know what the implications are in terms of costs. We ought to know, at least get an assessment from our intelligence community, what the likely consequences would be for our allies and what the reaction will be in Russia, to the extent we can calculate it. Notwithstanding what the Russian reaction might be, we are likely to take the steps necessary to enlarge. But we should at least be aware of what our intelligence community can tell us about it so that we can make informed judgments.

It seems to me that is not asking too much. And perhaps it comes at a political time, but these are issues that we should raise in advance. We should not find ourselves coming in at the tail end of a decision where a President has made recommendations either to enlarge or not to enlarge, where NATO has gone on record in favor, and suddenly the President turns to the U.S. Senate and says, "Well, the decision has been made. NATO is in favor of the expansion. Now the Senate must go along." Ipso facto, we must approve because NATO has approved.

That, I think, would put this Senate in an untenable position—to have a President of the United States make a decision and then simply submit it to us for ratification without us having any prior input into the decision itself or any kind of prior analysis of the evidence that we ought to be considering.

There are other questions that can be added to the list of questions contained in this amendment. Indeed, one concerns the benefits of enlargement. That, I think, is a very appropriate question to add. A whole list of questions can be added. It is not locked in concrete. These were not written on Mount Sinai. They can be added to; they can be subtracted from. But it seems to me we ought to start the discussion now.

One of my biggest criticisms is that NATO expansion has been bandied about, but the American people have not been asked about it. I hope we can persuade them that it is in our national security interest to expand the coverage and the protection and the benefits of NATO membership to countries that have long been under the heel and boot of tyranny, who are yearning to become part of this wonderful experiment in democracy and capitalism. They are eager to come in under our umbrella, as such.

I hope that we can start the dialog now, to start going to the American people and pointing out exactly what is involved, understanding what the risks are, what the calculated risks are, if any. I, frankly, think we have succumbed too often to Soviet, and now Russian, indication. Mr. Lebed once indicated if we were to expand NATO, that is world war III. Since that time, he has modified that suggestion. Now that he is a candidate for vice president, as such, he is taking a more moderate approach.

Nonetheless, we cannot ignore the statements made. We may take an action in the face of such a threat, but at least it should be an informed decision on our part. And I find nothing wrong with raising these issues now, even though there is a Presidential campaign underway, because President—well, I speak too soon—Senator Dole, candidate for President Dole has been on record for a long time about his favoring expansion. We will support him as best we can in that regard.

But I think it is critically important that we start raising these issues now, that we not blind side the American people and say, "Well, the President of the United States and the Congress have now gone on record that we are all favoring expansion." We have never asked them. We do not know if there are tax implications for them or whether we are simply going to borrow the money, or if any money will be necessary at all.

We have not asked them whether or not they would be willing to do it for not only Danzig, but Poland or the Czech Republic or any of the other nations that may come in, Hungary and others, Slovenia. We have not asked the American people as to whether or not they would support our sending our troops to those regions should there be an attack upon any one of them. It is important we ask them now to get some sense of what the public opinion is going to be, and if it is negative, to

try to overcome that and shape it to follow our leadership on that particular issue.

I might say in connection with another subject matter, that of Bosnia, I do not think we have asked enough questions on the subject of Bosnia. Things are going well; apparently they are going quite well now. There is less bloodshed, virtually no bloodshed taking place. The sides appear to have stepped back from this warfare that has been waged for so many years, and there seems to be a positive role that we have played during this interim period, a period of trying to maintain a truce.

President Clinton and Secretary Perry each have pledged publicly time and time again this is a 1-year commitment. I think most of us would raise questions initially as to whether you should ever make a time commitment on the deployment of American troops anywhere, but a political decision has been made that 1 year and 1 year only is the amount of time we would deploy our men and women to that region on the ground.

President Clinton has stated it publicly many times, Secretary Perry has testified before the Armed Services Committee on a number of occasions that they will start taking troops out, as a matter of fact, beginning in either late September or early October.

So there will be no October surprise. It will not be a politically astute movement on the part of the President, "Aha, we're going to have troops coming home; unbeknownst to the American people, they will come on the eve of the election." We know in advance they will be coming home before the election.

Yes, I am sure there will be some political benefit from that which President Clinton will seek to reap. We know that is going to take place. We also know, according to Secretary Perry, that all of our troops will be out by the end of December.

IFOR will no longer exist, according to the stated plan. But there is something else afoot, I must say, Mr. President. We have not talked about it, but I see it starting to take place. It is somewhat undefined right now. It is like a cloud very distant on the horizon that is coming our way, and we ought to try to identify it, because, Mr. President, there is afoot an attempt and a movement, I should say, in which the IFOR—the so-called IFOR that is there today, the NATO force—will be replaced with a new force.

That new force, presumably, will be made up of NATO members, including the United States. The size of that force has yet to be determined, but it will still have to be a sizable force if we are going to deter and discourage any attempt to attack our men and women who are serving there.

So now we have a situation in which we have pledged to the American people it is 1 year, and that 1 year came over the strong objection, I might say,

of many on this side of the aisle. But, nonetheless, a deployment for 1 year, and at the end of 1 year we are coming home. That is the pledge.

What is taking place now, however, is a suggestion that we need a new force, and that new force necessarily will have to include U.S. ground forces. We ought to start discussing that now and not wait until after the fact. Not wait until after November. Not wait until the Congress has dispersed either at the end of September or early October, when we are spread to our constituencies, and suddenly a decision is made that we are now formulating a new policy.

The elections will come, and whether it is President Clinton who is reelected or President Dole who is elected, a decision could be made in that interim between November and January to create a new NATO force committing U.S. participation. And then we would be told: "Well, it's a done deal. Our NATO allies are in favor of it, and now we must go along or we undermine the credibility of the NATO force itself." Our NATO allies would no longer trust the United States if we should back away from such a commitment.

That is a subject matter that is worth discussing. It may be necessary to do that. I have yet to identify a vital national security interest in Bosnia, which is an artificial state, but nonetheless that is this Senator's judgment. But we ought to be talking about that. We should not wait until after the Bosnia elections in September. We should not wait until after the Congress is dispersed and we adjourn sine die. We should not wait until after the November elections and then suddenly find, my God, the President of the United States has made a commitment to deploy our troops in a new type of IFOR in the region, maybe smaller, but nonetheless still significant in size.

So, Mr. President, we ought to get back to the business of having an active, intelligent discussion of these issues. We ought to try to do so on a bipartisan basis if at all possible. It seems to me we ought not to look for hidden agendas. Does the Senator from Georgia have an agenda to try to slow the process down? I do not think so. Others may come to a different conclusion. He is raising these issues because it is important that we prepare the American people for an analysis of exactly what the pros and what the cons are, what the benefits are, what the costs are.

Are we placing ourselves in greater jeopardy? Are we reducing the jeopardy to our new friends and allies? All of that is of critical importance, and we ought to discuss it before we take action, rather than bemoan the fact that someone has taken action and we are called to ratify it with no prior role or participation.

I hope we can amend the language to make it more positive, to ask about the benefits of expanding NATO, which

I support. But I hope we do not simply defer these questions until some time after the decision has been made and then have the American people say, "We don't want it. We don't want to pay for it. We don't want the benefits of it. We don't want to defend Poland or Hungary or the Czech Republic or Slovenia or the Baltics. We don't want any part of that." And suddenly the United States is placed in the position of saying, "Well, we can't back out of it now. We have made the pledge."

So I think these are important issues to be discussed. I hope that we can help shape public opinion in favor of expansion, and I continue to lend whatever support I can to Presidential Candidate Dole, Senator Dole, whom I expect and hope will become the new President of the United States.

AMENDMENT NO. 4369

(Purpose: To authorize additional disposals of material from the National Defense Stockpile)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 4369.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title XXXIII, add the following:

SEC. 3303. ADDITIONAL AUTHORITY TO DISPOSE OF MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

- (1) \$110,000,000 during the five-fiscal year period ending September 30, 2001;
- (2) \$260,000,000 during the seven-fiscal year period ending September 30, 2003; and
- (3) \$440,000,000 during the nine-fiscal year period ending September 30, 2005.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

AUTHORIZED STOCKPILE DISPOSALS

Material for disposal	Quantity
Chrome Metal, Electrolytic	8,471 short tons
Cobalt	9,902,774 pounds
Columbium Carbide	21,372 pounds
Columbium Ferro	249,395 pounds
Diamond, Bort	91,542 carats
Diamond, Stone	3,029,413 carats
Germanium	28,207 kilograms
Indium	15,205 troy ounces
Palladium	1,249,601 troy ounces
Platinum	442,641 troy ounces
Rubber	567 long tons
Tantalum, Carbide Powder	22,688 pounds contained
Tantalum, Minerals	1,748,947 pounds contained
Tantalum, Oxide	123,691 pounds contained
Titanium Sponge	36,830 short tons
Tungsten	76,358,235 pounds
Tungsten, Carbide	2,032,942 pounds
Tungsten, Metal Powder	1,181,921 pounds
Tungsten, Ferro	2,024,143 pounds

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of ma-

terials under subsection (a) to the extent that the disposal will result in—

- (1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or
- (2) avoidable loss to the United States.

(d) TREATMENT OF RECEIPTS.—(1) Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be deposited into the general fund of the Treasury and used to offset the revenues lost as a result of the amendments made by subsection (a) of section 4303 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 100 Stat. 658).

(2) This section shall be treated as qualifying offsetting legislation for purposes of subsection (b) of such section 4303.

(e) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

Mr. COHEN. Mr. President, this is an amendment which I am offering, actually, on behalf of the administration. It is something that involves what we call research and development recoupment.

The state of affairs is as such: The U.S. companies that sell defense equipment abroad are charged a fee by the Department of Defense for the purpose of recouping the research and development investment that the Department has made in developing the equipment. These fees can run anywhere from 5 percent of the unit cost to as high as 25 percent of the unit cost.

These recoupment fees often put our industries at a substantial competitive disadvantage because the fees result in higher sales costs, leading some of the buyers to simply purchase foreign-produced systems, instead.

The Bush administration eliminated the R&D recoupment fee for commercial arms sales, but in the case of foreign military sales, so-called FMS, those in which the U.S. Government acts as a middleman, the fee is actually required by law.

Last year—let me emphasize this—last year the Defense Authorization Act included a provision to allow the President to waive the fee under two conditions. First, if imposing the fee would cause us to lose the sale, then the President can waive that recoupment fee. Second, if the foreign sale would result in unit cost savings to the Defense Department when it buys the same equipment and those fees would substantially offset the revenue lost from waiving the fee.

Here is the problem, Mr. President. Since allowing the fee to be waived would on a net basis lower Government revenues, last year's bill delayed the waiver authority until the enactment of legislation to offset the projected lost revenues through the year 2005.

So the administration, as required by last year's bill, has submitted such offset legislation. They have now submitted offset legislation which would cover the lost revenues by selling assets from the strategic stockpile. The Congressional Budget Office has given its stamp of approval to the administration's plan.

For several months there was some confusion over whether the administration's bill would work because it significantly overestimated how much lost revenue needed to be offset, calling into question whether the Department of Defense could sell off sufficient stockpile assets without interfering with the market.

Earlier this month, however, CBO concluded that waiving the R&D recoupment fee per last year's bill would cost roughly \$415 million through the year 2005. That is about half of what the administration originally projected would be the cost.

At the time that the Armed Services Committee marked up this bill, CBO had yet to produce its analysis. So the issue simply was not addressed at that time. But after we completed the markup, President Clinton's administration said that unless we included this provision in the offset, they would recommend a veto of the DOD bill.

So, in essence, I am acting on behalf of the administration to try to avoid a veto of the measure by now offering that provision in the form of an amendment, the provision that the committee had failed to include. So I am serving here, I think, a bipartisan purpose; namely, the administration said we are going to veto this bill unless you include this amendment, so now I am offering the amendment to help avoid a veto.

I know that some Members from States that produce materials that would have to be sold have indicated some concern about the effect that selling these strategic minerals would have on the markets. But I emphasize, the amendment explicitly prohibits any sale that would have an undue disruption on the markets involved.

Also, I am aware that some Senators might look at this amendment and ask, "Aren't we promoting international arms sales?" I agree that we should always be careful about what arms we sell and to whom we sell them. But this amendment does not pose any problem in terms of unwise arms sales.

First of all, the amendment only deals with FMS sales, which the Government has complete control and discretion over. If a proposed sale is unwise or against our interest, this amendment in no way creates any incentive for U.S. officials to approve the sale. In fact, it would create a disincentive because waiving the fee would reduce revenues.

I also note a Presidential commission on conventional arms proliferation just last week released its report. That commission was chaired by Janne

Nolan, known to many Senators because of her service in the Carter administration and as a Democratic Senate staffer. Another commission member was Paul Warnke, who was President Carter's head of the Arms Control and Disarmament Agency. So we have two very strong individuals who have served in past Democratic administrations who served on this commission.

The commission came out with some strong recommendations to limit the sale of conventional arms to other countries. The relevant point for this amendment is that the commission called for the complete repeal of FMS R&D recoupment fees.

My amendment does not go that far. Perhaps we ought to eliminate the recoupment fee altogether. But my amendment is not trying to establish new policy. It merely finances the policy decision that Congress made last year when we approved the DOD authorization bill.

So, Mr. President, the President's commission on preventing the proliferation of conventional arms sales totally supports this particular approach. They want to eliminate the recoupment fee entirely. This is a much more modest step. It is something that the administration has requested. I hope that my colleagues will see fit to support it.

Also, Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Department of Defense supporting the amendment, an excerpt from the report of the President's Advisory Board on Arms Proliferation Policy, an article from the Washington Post describing the general findings of the commission calling for greater restraint in arms sales, and, finally, a letter from the Aerospace Industries Association, which endorses the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, DC.

Senator STROM THURMOND,
Chairman, Committee on Armed Services, U.S.
Senate, Washington, DC.

DEAR SENATOR THURMOND: Your staff has asked for the Department of Defense views on two draft floor amendments to S. 1745, the DoD Authorization Act for Fiscal Year 1997. The first amendment would reinsert into the bill offsets valued at \$440 million over nine years for funding Foreign Military Sales (FMS) from sales of excess inventories of the National Defense Stockpile (NDS). The initial Department of Defense legislative proposals for FY97 also contained such an offset provision. The draft floor amendment is worded somewhat differently from DoD's original offset proposal for FMS sales. However, we support the amendment as long as it contains language in subsection (c) subjecting the stockpile sales to a provision that would prohibit disposals to the extent that they would result in "undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal."

Without the market impact provision, the Department could be in a position where we

would have to sell large amounts of its inventories of NDS materials on to the world market in order to meet the mandatory schedule of receipts even if this would adversely impact world markets for these materials and harm both domestic and foreign producers. Moreover, such action could affect the market value of the remainder of the NDS inventories of these materials making it impossible to meet the schedule of receipts in future years.

The second amendment would authorize sales of 10,000 short tons of Titanium Sponge. This amendment is duplicative of the disposal authority for Titanium Sponge in section (b) of the first floor amendment regarding FMS offsets which authorizes disposal of our total Titanium Sponge inventory of 36,830 short tons. Therefore, these amendments are mutually inconsistent. We believe the FMS offset amendment should have priority.

Sincerely,

JOHN B. GOODMAN,
Deputy Under Secretary
(Industrial Affairs and Installations).

Enclosure.

EXCERPT FROM THE REPORT OF THE PRESIDENTIAL ADVISORY BOARD ON ARMS PROLIFERATION POLICY

THE R&D RECOUPMENT CHARGE

Current law provides that when certain weapons developed for U.S. use are sold abroad by the U.S. Government, a charge is to be added to the price and remitted to the Department of Defense. This requirement, intended to recover part of the U.S. government's original investment, is called an R&D recoupment charge. The case-by-case application of this charge has historically been both uneven and controversial. Various administrations have obtained numerous exceptions from Congress, allowing the charge to be reduced or waived for foreign policy reasons. General exceptions currently exist in law for individual nations, including NATO allies.

Industry has argued that the charge discriminates against defense contractors, since such recoupment rules have no such parallel in other areas where the U.S. government has made major R&D investments in developing and purchasing capital equipment—for example, power generation, telecommunications, computer systems, and nuclear reactor technology. Further, American firms cite the R&D recoupment charge as a clear and sometimes significant price discriminator against them as they compete for sales in third countries against foreign producers. These foreign competitors have no equivalent added costs, and may even benefit from overt or covert subsidies from their respective governments. Based upon its review of this issue, the Board supports the Administration's stated intent to seek repeal of the current R&D recoupment charge.

[From the Washington Post, June 26, 1996]

ARMS TRADE MENACES U.S. SECURITY, PANEL SAYS: CLINTON-APPOINTED GROUP URGES RESTRAINT IN SELLING CONVENTIONAL WEAPONS TO OTHER COUNTRIES

(By R. Jeffrey Smith)

An advisory panel appointed by President Clinton has warned that the \$22 billion global trade in increasingly sophisticated conventional arms threatens to undermine the security of the United States and its friends and has called on Washington and its allies to exercise more restraint in selling such weaponry to other countries.

Noting that the end of the Cold War has reshaped the world market for armaments and given the United States the predominant share of all such exports, the panel said that

Washington should show more leadership to slow the proliferation of advanced weaponry and ensure that civilian technology are not being diverted to military use overseas.

Although the panel noted that some arms sales to friendly regimes can add to U.S. security, it warned that modern arms "have in some cases attained degrees of military effectiveness . . . [previously] associated only with nuclear weapons" and expressed particular concerns about the risks from selling to unstable regimes in Asia and the Persian Gulf.

In particular, the panel called for U.S. policymakers to stop approving some weapons exports to prop up declining U.S. defense firms, a recommendation at direct odds with a U.S. conventional arms control policy adopted by Clinton in February 1995. National security interests should be the sole criteria for making such exports, and domestic economic pressures should "not be allowed to subvert" decision-making, the panel said.

"The world struggles today with the implications of [exporting] advanced conventional weapons," including the promotion of regional arms races or political instabilities, and risks to U.S. soldiers overseas, the panel said. It warned of even greater problems in the future, as "yet another generation of weapons" with greater destructive power is exported.

As a result, the five-member, bipartisan panel said it was "strongly convinced that control of conventional arms and technology transfers must become a significantly more important and integral element of United States foreign and defense policy if the overall goals of nonproliferation are to succeed." The report—the result of an 18-month study with assistance from the Rand Corp.—was presented to the White House on Friday, and is to be formally released this week.

The U.S. shares of the global arms market is 52 percent, up from around 25 percent nine years ago, and will likely expand to about 60 percent by the end of the decade, according to the report. But the size of the market has shrunk by more than half during the same period, primarily at the expense of Russia, which no longer ships arms to client states such as Afghanistan, Cuba, Iraq, Syria and Vietnam. U.S. domestic arms procurement also declined by \$60 billion between 1985 and 1993.

The result is what the report describes as an "excess production capability" in weapons factories around the world that has created enormous corporate pressures to sell products abroad. The Clinton administration paid heed to these pressures when it decided that safeguarding the U.S. "defense industrial base" or certain key U.S. defense firms should be among the criteria used in arms export decisions.

The panel said, however, that the export market remains too small to compensate for domestic business losses, and that "means other than questionable arms sales" are available to protect vital U.S. defense firms. It said that "the best solution to over capacity in defense industries is to reduce supply rather than increase demand."

This conclusion was hailed by House Budget Committee Chairman John R. Kasich (R-Ohio), who sponsored legislation creating the panel. "It's the economy, stupid," is a cute slogan, but must never be the justification for arms sales abroad. I am glad the commission rejected the industrial base argument and hope the administration will implement the recommendation."

The panel was also sharply critical of the way the administration reviews arms exports, accusing the National Security Council of paying insufficient attention to the issue and urging it to exercise more power to

restructure interagency mechanisms for greater efficiency, including improved intelligence-gathering. It also said regulations created by a half-dozen or more laws that govern exports should be formed into a "single, coherent framework."

"It looks like a very thorough, thoughtful, comprehensive report and we look forward to studying its recommendations closely," a senior administration official said.

The panel chairman was Janne E. Nolan, a senior fellow at the Brookings Institution who was a delegate to international arms transfer negotiations during the Carter administration. Its other members were Edward R. Jayne II, a business executive; Ronald F. Lehman, a former director of the Arms Control and Disarmament Agency in the Bush administration; David E. McGiffert, a former assistant secretary of defense; and Paul C. Warnke, a former U.S. arms negotiator and assistant secretary of defense.

AEROSPACE INDUSTRIES ASSOCIATION,
Washington, DC, June 27, 1996.

Senator SAM NUNN,
Ranking Member, Senate Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SAM: The Arms Export Control Act currently requires the government to add a charge on all Foreign Military Sales (FMS) of major defense equipment to recoup costs incurred by the government for the research and development, and non-recurring costs for production of the products being sold. The Bush and Clinton Administrations, recognizing that this fee is essentially a tax on exports, asked Congress to rescind this requirement. Furthermore, the recently published Report of the Presidential Advisory Board on Arms Proliferation Policy, also recommends that this charge be eliminated.

Congress ultimately included an authority in the FY 96 DoD Authorization bill to waive FMS recoupment requirement should failure to do so likely result in the loss of a sale or should U.S. Government procurement cost savings associated with a sale substantially offset the foregone recoupment revenue. However, this waiver authority is not effective until qualifying budget offset legislation is enacted. Recently, DoD has identified such a budget offset.

It is my understanding that Senator Cohen (R ME) will offer an amendment to the FY97 DoD Authorization bill that will enact the budget offset legislation. As I mentioned above, the recently published Presidential Advisory Board report states that recoupment charges should be completely eliminated. Senator Cohen's amendment would provide only partial repeal, and we feel that this is a fair compromise position.

We believe that the time has come to eliminate this tax on exports, and we urge you to support the Cohen Amendment.

Sincerely,

DON FUQUA.

Mr. LIEBERMAN. Mr. President, I am offering my support to and cosponsorship of Senator COHEN's amendment to the fiscal year 1997 defense authorization bill which authorizes additional disposals of material from the national defense stockpile. The revenues generated by these sales are needed to offset the revenues lost as a result of waiving certain surcharges on sales of U.S. defense equipment to foreign countries aimed at recouping some of the original costs of developing those products.

Last year, this Congress correctly saw fit to expand the President's au-

thority to waive these surcharges when, and only when doing so would improve the prospects of winning contracts from foreign countries or lowering the cost of acquiring similar equipment by the Department of Defense. With the downsizing of our military force structure and the concomitant reduction in demand for equipment, it has become increasingly important for us to ensure that we can maintain a minimum industrial base and the skilled workforce necessary to preserve our production capabilities so as to provide for an adequate defense of our Nation. These sales will help us maintain these manufacturing and manpower capabilities.

In addition, the requirement for the stockpiles that would be reduced by this amendment was established in case they would be needed in a protracted war with the Soviet Union. Clearly, this threat has significantly abated, and the stockpiles in question are in excess of any near term requirement.

Mr. President, for these reasons it is important that these stockpile sales be authorized. I urge my colleagues to vote for this amendment.

Mr. COHEN. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President.

AMENDMENT NO. 4367

Mrs. HUTCHISON. Mr. President, I rise to speak on behalf of the Nunn-Hutchison amendment. Let me just say that I appreciate what has been said on the floor, and I think that all of us are moving in the same direction. I think that we are moving in a very positive and responsible way. This is not an issue of, are you for NATO expansion or not? This is an issue of a responsible approach to the expansion of NATO.

What we are asking for is a report that would ask and answer the questions that anyone coming into a mutual defense pact would want to be answered. Very clearly, if we are going to put up the resources of the United States and the lives of our young men and women who are in our armed services, we want to do it in a very responsible and studied way.

We have simply said we want this decision to be a fully informed decision. We want to know the extent to which any prospective new NATO members have established democratic institutions, free market economies, civilian control of their armed forces, the rule of law, parliamentary oversight of military affairs. I think these are very important questions to ask because they determine how strong a democracy will be in any country that would be part of this very important alliance.

I think it is important that we know what are the mechanisms for border dispute resolutions. Certainly, we know there are going to be border disputes among friendly nations. There

are border disputes that are not so friendly. We must know exactly what the resolution of border disputes will be, how will it be handled, what are the mechanisms that will be set forth for the resolution of border disputes.

Most certainly, had Yugoslavia been a member of NATO, it would have put us in a very difficult situation. Yugoslavia was not a member of NATO, so it was not in the perimeter of the actual NATO alliance. I think these are very valid questions. I am certainly going to support the informed expansion of NATO. I want to be there for especially the countries that are trying so hard and are succeeding at having strong economies and are putting democracies in place that are beginning to work. I think we are looking at the time element here. We need to have a test of time before we go into the mutual defense pact. That is what we are saying here.

I think it is a very positive thing for all of us to ask these questions and to make sure that if we are going to have before us the ratification of the expansion of the NATO treaty, that we have all of the answers to these questions, because a two-thirds vote will be required in the Senate. We want to make sure there is overwhelming support.

Last but not least, Mr. President, I want to make sure that we protect the underlying NATO alliance. I think it is very important we keep the commitment that we have in this country to our transatlantic friendships and our transatlantic allies and alliances. To do this, we must make sure if we expand this very important alliance, which I think probably has been the most successful alliance perhaps in the history of the world, that we need to do it judiciously and carefully and in a very informed way.

I think we have seen great disagreement on American troops in Bosnia. We did this in a NATO mission. I do not want there to be a question in the future about the strength of NATO or our commitment to NATO. This is our important alliance. I want to keep it strong. I think the way to do that is to make sure when we expand, we do it in an informed way.

It is not a question if you are for or against the expansion of NATO, but whether you are for a deliberate and informed expansion of NATO. I think there can be no question that when the lives of our citizens are at stake and when the money of our hard-earned taxpaying citizens is at stake, we should know exactly what we are getting into, as should every member nation of this alliance and every prospective member nation of this alliance.

I speak in favor of the amendment. I hope we can work out the language so that every single Member of the Senate will be comfortable that this is the right thing to do. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I support the adoption of the amendment offered by the able Senator from Maine.

The Department of Defense proposed this amendment allowing the President to waive recoupment charges on foreign military sales. This measure to repeal the recoupment provision is strongly supported by this administration, which feels that recoupment is an impediment to foreign military sales. Eliminating recoupment was also supported by President Bush's administration. So this is not a partisan issue. Because of its support by the executive branches under both Republicans and Democrats and because of the support on both sides of the aisle in Congress, this matter needs to be addressed.

Some will no doubt contend that eliminating recoupment charges will encourage an arms race. Those against repealing recoupment argue that we are going to become an arms merchant, and that we are going to contribute to the escalation of arms sales all over the world if this recoupment provision is repealed. There is no basis for such claims. In fact, the decision as to whether or not to buy a particular weapons system is made primarily by countries and their particular defense needs. Elimination of recoupment is not an incentive to additional arms sales. However, its elimination will have the result of making the United States much more competitive in terms of being able to compete with those nations which are now both our allies in the world and also now our industrial competitors. The United States initially enacted laws requiring recoupment payments primarily for the benefit of our allies, especially to enable our NATO allies to have these weapons. Now that is no longer solely the case. Our friends are also competing internationally with U.S. businesses, and in many cases they are overtaking us on some of these arms sales. This ultimately affects U.S. jobs.

Mr. President, recoupment payments were initially instituted in the early 1960's. The intent of recoupment was to enable our Government to recover part of the cost of developing the technology needed to fight at the side of our NATO allies and win the cold war. However, our allies—especially in Europe—have now also become our economic competitors. Now, when American corporations attempt to sell military goods, their products are burdened with a surcharge that makes American products less competitive. These exports create and protect thousands of American jobs and contribute billions of dollars to our national economy. Lowering barriers and expanding opportunities for American companies to

trade abroad is critical to America's long term well-being and international competitiveness.

If we encourage appropriate and responsible commercial foreign military sales, we do three things. Jobs is one. Second, we save the industrial base. The United States can use the advantage of a strong industrial base later as our own national security problems arise. Third, and this is very important in terms of saving money for the Government, we are able to manufacture more units of whatever is exported. Because of these exports, we lower the per-unit cost of whatever the item might be. This means that when the U.S. Government purchases that item in the future, it will cost the United States less. If, for instance, C-17's are sold abroad, the per-unit cost of is lower to the U.S. Government. We save the industrial base; we lower the cost of defense purchases for the U.S. Government. For all these reasons I think this proposed change in the law is a worthy idea.

Mr. President, the question of recoupment is also a question of national security. If we can keep defense industry healthy doing business that is fully supported by our laws and U.S. foreign policy, then this same industry will be alive and healthy to produce weapons and defense assets for the future in the event the need arises in this increasingly unstable world. This is one strong measure in which we can help preserve our industrial base. If our industrial base shrinks, it would jeopardize us in the event we have hostilities elsewhere in the world. We must respect these long-range national security implications. The issue has jobs, economic, and security implications for our country. For these reasons, I support adoption of this amendment.

(Mrs. HUTCHISON assumed the chair.)

Mr. GRASSLEY. Madam President, I ask unanimous consent that the Cohen amendment be set aside for the purpose of my offering an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 4370

(Purpose: To establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes)

Mr. GRASSLEY. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 4370.

Mr. GRASSLEY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GRASSLEY. Madam President, the amendment that I am offering does not need a great deal of discussion. The reason it does not need a great deal of discussion at this point is because it has been considered on the floor of the Senate and has been the subject of hearings before the Senate Finance Committee.

This amendment incorporates the language contained in S. 1438, the bill introduced by our former colleague, Senator Dole. It would create a review commission, consisting of Federal appellate judges, who would review the decisions of the World Trade Organization. It would review those decisions made against the United States. The judges would determine whether any decision was arbitrary or capricious, or otherwise constituted an abuse of the World Trade Organization's authority.

If such an abuse were found by our appellate judges, that determination would be transmitted to the Congress. At that time, any Member of Congress would be authorized to introduce a joint resolution calling for the renegotiation of the World Trade Organization dispute settlement rules.

Upon the third such determination within a 5-year period, a joint resolution could be introduced withdrawing congressional approval of U.S. membership in the World Trade Organization.

It should be remembered that this language was approved by the White House as part of the compromise needed to assure passage of the Uruguay Round and, as more and more cases will be going to the WTO in the future, this amendment will provide a crucial safety valve to assure that our interests in free and fair trade will be given a proper hearing.

It should also ease the fears of any of our constituents that the United States has somehow surrendered its sovereignty by joining the World Trade Organization. I think such an argument is not very factual, does not have any basis whatsoever; but those arguments are made. And it was a major issue of concern during the debate on the approval of the World Trade Organization 2 years ago. So we now know that not to be true.

But Senator Dole, because of that concern at the time of the approval, worked out this agreement with the administration, in order to assure passage of the Uruguay Round. President Clinton strongly supports this bill, and it is supported by the special trade representative office. I believe that now is a good time to put this commission into place. So I ask my colleagues to vote for this amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. HOLLINGS, is recognized.

Mr. HOLLINGS. Madam President, I was just notified that the amendment was called up, and I do not have my entire file on this subject here. But I have

a mental file because this has been discussed back and forth over the past several months.

What really occurred, Madam President, is that we made a disastrous mistake in joining in the World Trade Organization. We joined the WTO without the caution exercised in joining the United Nations. We would never have really joined the United Nations and maintained our support for its operations had we not had our veto power in the U.N. Security Council.

The creation of a security council with an absolute veto by any one member was debated at length at the time of the adoption of the United Nations. Here we were, in the family of some 117 countries at the time—and I think maybe 137 have joined since—and in this family of nations, we were looked upon as the rich nation that could afford any and every kind of contribution for the freedom of man the world around. This was particularly true when it came to economic affairs. We agreed to act as the market of first resort in order to rebuild the shattered economies and in order to develop the third world. If we had any illusions about how we are perceived in most international organizations we need only to look back to 3 weeks ago when the—the People's Republic of China—faced condemnation by a U.N. resolution criticizing the People's Republic for human rights abuses. In the United Nations they passed a resolution, joined in the Assembly with the European Community and the United States, to get a hearing before the Human Rights Commission. Our friends, the People's Republic of China, immediately went down to Africa and corralled the votes, and when the issue came up 3 weeks ago, the People's Republic of China had the votes within the U.N. Human Rights Commission that it was what they called a nonissue, and not to be discussed.

So here is an example of the problems we face in the international organizations, rather than the United States being the leader we were immediately put on the defensive and roundly condemned in the developing world. We may think of ourselves as the light upon nations leading the way to democracy but in international organizations we are viewed as the hypocritical rich uncle constantly lecturing others on how they should behave.

With respect to the World Trade Organization itself, we argued at the time—and I will argue at length here this evening—how we lost our rights under section 301. So we have lost those rights under 301.

Again, not just 3 weeks ago but this past week, you see where the United States of America has abandoned the Eastman Kodak case, instead of using sanctions for unfair practices not covered under the WTO the Japanese have called our bluff and said in the new WTO era all disputes must be taken to the WTO. We had no choice but to comply with their desire to settle this dis-

pute. If the WTO found against Japan and for the United States in that particular case, I can tell you right now that would be the end of the WTO. If the WTO rules in favor of the Japanese in the Kodak case I can tell you right now, we won't need a review commission, the pressure to withdraw from the WTO will be overwhelming. This case amply displayed that we have lost our independence in trade policy, the WTO has achieved its principal objective, the elimination of U.S. unilateralism in trade policy.

There are two very important individuals that are worried about these strains. One is the President of the United States, and the other is the likely Republican nominee for the Presidency here come November. These two folks are unindicted coconspirators if you will conspiring to pass the GATT. The Senator from South Carolina would then charge them—that is the President and the Republican nominee—as conspirators unindicted to cover their backsides.

The Senator from Iowa has put in S. 1437, the Dole bill, Calendar No. 253, to establish a commission to review the dispute settlement reports of the World Trade Organization.

Madam President, this is not a well-conceived thing. It need not be well conceived because it really is to get the people past the Presidential election. But the commission shall be composed of five members, all of whom shall be judges of the Federal judicial circuits and shall be appointed by the President, after consultation with the majority leader and minority leader of the House of Representatives, the majority leader and the minority leader of the Senate, the chairman and the ranking member of the Committee on Ways and Means of the House of Representatives, and the chairman and ranking member of the Committee on Finance of the Senate.

Here is a high-level commission of Federal district judges from the Federal judicial circuit, plus these leaders in both Houses, and everything else, to get together to do what? To determine if three adverse rulings by the World Trade Organization are, of course, adverse, being against us, and, if so, then they can memorialize Congress to pass a resolution to withdraw from the World Trade Organization.

We can do that now. We do not need a commission.

This crowd has certainly got political gall to buck the responsibilities of being Senators and Congressmen to any and everybody else. It is sort of hit-and-run driving in politics in this day—"I am concerned. I am concerned. I am disturbed." This crowd should quit getting concerned and disturbed, and let us start to do some things.

This does nothing. It can be used on the political stump in the Presidential debates later on. "Oh, yes, don't worry it. We got a high-level commission that we passed this year to review it."

Well, go over there and ask the Chief Justice of the Supreme Court of the

United States, and he will tell you these Federal district judges have no authority to serve on such a commission. In fact, they will be forbidden to serve on it.

This is hogwash, a cover-your-backside kind of resolution to show that they are concerned and they are disturbed and they are watching it carefully, as they berate, "I am for jobs, I am for jobs, I am for jobs." They are nothing but pollster politicians running around—"I am for the family and against crime. I am for jobs and against taxes." And all they do is they take these seven or eight hot buttons, and they make their little TV squibs, 20-second bites. As long as they can articulate a lot of them with a lot of money, a lot of TV shots and everything, come to public service, and they do not know anything else to do.

They get in this sort of game here tonight where we have the armed services bill, a very important measure. I serve on the Defense Appropriations Subcommittee, so I am familiar with many of the particular issues that need be decided here by the U.S. Senate on the armed services authorization. But, instead of that, we got any and everything—cattle, dog—bring it up with respect to this. This is a grab bag for the Presidential race, and we do it, so-called, with dignity and in seriousness of purpose, and treat it seriously by this news crowd that my friend James Fallows has written an entire book about, now, about breaking the news, how the media undermine American democracy.

So it will be my purpose this evening—and I will be taking up a good part of the evening, I would think, because I do not have some of the colleagues alerted, but I will be taking up a good part of the evening reading this bill and the Fallows book about how the media has undermined American democracy by refusing to engage in the real issues the American people should be engaged in.

Fallows really has a very interesting approach, Madam President. He describes the dichotomy between Walter Lippmann, on the one hand, and John Dewey on the other. Lippmann contended that the press should be an erudite, an unusually trained and skilled group on all the complicated subjects, and together they should decide the more or less bill of particulars for the American public and the programs and the way they emitted the news.

In contrast, John Dewey said, yes, they should be well trained and skilled, fully informed of this particular subject matter, but, more particularly, they should engage the American public in subject matters that need to be engaged in—and that, they have not. And to tell the American people the truth even at times they do not want to hear the truth. The truth is the most important subject totally neglected in this particular session of the 104th Congress is the subject matter of trade. The helter-skelter treatment

given trade in November year before last was just that. We were force fed without the proper leadership, without the proper hearings. We tried our best at the level of the Commerce, Science and Transportation Committee that I chaired at that particular time to bring the witnesses from all the different trade organizations.

Madam President, I am getting good news. I feel that my good friend from Iowa realizes how serious we are. I do not want to just act like we do not have a point here and we are just politically rejoining.

I happen to be a friend of the distinguished former majority leader, the Republican nominee for the Presidency. I will never forget the early days when I had suggested the appointment of Clement Furman Haynesworth to the U.S. Supreme Court, a distinguished South Carolinian, and I turned to then freshman Senator Robert Dole, of Kansas, who stayed in the Chamber intermittent hours on end to help me with that particular appointment. We have been close friends ever since. But I had explained to the distinguished former majority leader that this was a subject matter not to be glossed over with one of these cover-your-backside kind of amendments to get a judicial council like they are studying it and they are watching it closely—all, of course, apple sauce to get us past the November election and then once again the total drain of America's industrial backbone.

I would be delighted to continue. I know my distinguished former majority leader, the former President pro tempore of the Senate, the Senator from West Virginia, had a studied amendment here. I wanted to be able to discuss that. But I have just been notified that the distinguished Senator from Iowa has a different idea perhaps at the moment for this particular evening about his amendment. And I learned in the courtroom long ago, when the judge is ruling with you, to hush, so I yield the floor.

Mr. BYRD. Madam President, will the Senator yield before he does?

Mr. HOLLINGS. Yes.

Mr. BYRD. Madam President, I congratulate the distinguished Senator.

He will perhaps remember that one Friday afternoon, I believe it was, most everyone had gone home and the distinguished former majority leader, Mr. Dole, wanted to call up this bill and get it passed by unanimous consent, and we contacted, I believe, Senator HOLLINGS' office and Senator DORGAN's office because I knew how they felt about it. I think everybody was gone. I said, well, who am I to object to this, but I just do not feel right in letting this bill pass with nobody here, so I objected to passing the bill by unanimous consent on that afternoon, which irritated the then-majority leader, but I was sure I did the right thing in objecting to unanimous consent.

I voted against the GATT, as did the Senator from South Carolina; I was

very much opposed to it. I did not think too much of the legislation that was being drawn up by Mr. Dole because it included a number of judges, five I believe. They do not have time to engage in matters of this kind. As a matter of fact, I received a letter dated August 31, 1995, from the Administrative Office of the United States Courts in which they objected to this legislation.

So I thought, well, I would like to get that judgeship panel out of there, but I was unable to get it out, and so I decided I would try for an amendment that would create some other entities, one of which would be made up of business men and women and labor representatives, so that they would have some idea of what is happening, what the impact of WTO decisions was going to be on our own economy, jobs, and so forth.

So that was the amendment I was going to offer if this thing was going to move, and I am sure the distinguished Senator, while he opposed the then Dole proposal and now the proposal by the Senator from Iowa, would not oppose my amendment if it had to go along with this thing. If the Senate is going to act on it and take it, I would like to have my amendment on it. But I am personally happy just to rest and let matters take their course, and if on another day this comes up, I will have my amendment ready if need be.

I thank the Senator. I think he has done yeoman's work here, and he has been successful. I will sit down. I will take my seat along with him.

Mr. HOLLINGS. I thank the distinguished Senator.

Mr. BYRD. Madam President, I ask unanimous consent to insert in the RECORD the letter to which I referred from the Administrative Office of the United States Courts.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
Washington, DC, August 31, 1995.

Hon. ROBERT C. BYRD,
United States Senate,
Washington, DC.

DEAR SENATOR BYRD: The Judicial Conference of the United States opposes the enactment of S. 16, the WTO Dispute Settlement Review Commission Act, so long as five sitting federal judges are required to become members of this commission. Accordingly, we applaud your action of August 11, 1995, when you declined to give consent to Senator Dole's request to allow the Senate to pass this bill.

While you said on the floor that you do not have a full understanding of the merits and demerits of S. 16, your instincts were entirely correct. There is no compelling reason why sitting federal judges have to comprise the membership of this commission. As you say, the judiciary has a very heavy workload, and also the responsibility to the public and to litigants to promptly deal with the cases assigned to them. In response to your second point, federal judges have no special competence or experience to decide whether a WTO dispute resolution panel complied or failed to comply with GATT-related rules in reaching a decision.

The Finance Committee held a hearing on S. 16 on May 10, 1995. Judge Stanley S. Harris testified in opposition to the bill on behalf of the Judicial Conference. A copy of the Judge's statement is enclosed. Judge Harris explained that of the 179 authorized circuit court judgeships, 16 positions are vacant; that circuit court judges have, on average, dockets of nearly 300 pending cases, up from 120 cases in 1970; and that the forecast is that the caseload will continue to increase. In sum, forcing five judges off the bench, for at least six months each year, will have a negative effect on judicial resources.

During the Finance Committee hearing, the issue of the constitutionality of this bill was raised by Senator Grassley. Judge Harris pointed out in his prepared statement that the Judicial Conference does not offer advisory opinions on such an issue, although he urged the committee to study the constitutionality of this bill for itself. A witness at the hearing, Alan M. Wolff, testified that the use of federal judges on the commission "does not present constitutional problems".

Given that, Senator Grassley asked Judge Harris his personal opinion of whether Congress has the authority to assign non-judicial duties to Article III judges in light of *Mistretta v. United States*, 488 U.S. 361 (1989). In that case, the Supreme Court held that sitting Article III judges could serve on the U.S. Sentencing Commission. Judge Harris said that the "linchpin" of the *Mistretta* decision was that the Court recognized that the U.S. Sentencing Commission operated "within the essential framework of the Judicial Branch of Government", that the duties to be performed by judges on this commission were clearly not judicial functions but rather functions "sort of in between the Executive Branch and the Legislative Branch", Judge Harris then summarized as follows:

"I commend the purposes of S. 16. I think it would be extremely unfortunate to have it begin to be implemented, get down the track, and then get thrown off the track by a conclusion that it involves an unconstitutional use of Article III judges."

In conclusion, I commend you for your action on August 11. Hopefully, if and when the Finance Committee considers S. 16, it will decide that all federal judges should continue to judge as the Constitution commands, and that others can decide whether the United States has been treated fairly by the World Trade Organization. If I can provide anything further to convince you to persist in opposing this bill, please advise.

Sincerely,

L. RALPH MECHAM,
Secretary.

Mr. THURMOND. Madam President, there is no question that the new rules of the World Trade Organization, especially the new dispute settlement regime, can create a situation of unprecedented opportunity. It also creates a situation of potential harm to American interests if we do not enact responsibilities by Congress on this matter.

Americans have been generally suspicious of the GATT Agreement and the corresponding powers given to the World Trade Organization. Many Americans feel our country might be giving up far more than we are getting under this agreement. Most importantly, what we appear to be giving up is some of our sovereignty, some of our ability to decide for ourselves, and control over the laws and practices which govern us. The biggest potential threat to our sovereignty is the new dispute settlement process.

If we are to be comfortable with the international dispute settlement process, above all else, it must be completely impartial. If the United States does not perceive impartiality and if the WTO oversteps its authority, then our country must be prepared to respond. That is what this amendment calls for. The Dispute Settlement Review Commission will help us respond. The Commission will review every adverse decision issued by the WTO. Federal appellate court judges, which this amendment proposes as Commission members, are especially qualified to review these decisions, because the questions will be complex international legal issues of whether the WTO as an international tribunal acted within its authority, abused that authority or acted arbitrarily or capriciously.

I believe establishing this review commission will enhance the credibility of the WTO. It will be a powerful signal to WTO panelists that their work must be absolutely impartial. And, a reminder of their obligation to observe the bounds in negotiated trade agreements. And perhaps, most importantly, it will demonstrate that the U.S. Congress takes a strong and long-term interest in the dispute settlement process and its proper functioning. Confidence in the WTO process was not created merely by signing a trade agreement. Confidence must be built up over a long time.

I believe the President has already expressed support for this legislation in its earlier form as a bill. This is not a partisan measure. It gives Congress some authority and some responsibility required in international trade. We know the American people are concerned about job loss, about exporting jobs, and about international organizations making decisions that might affect their jobs. In this light, the Congress should have some comment on the WTO's activities, and if necessary, authority to initiate withdrawal from participation if U.S. interests are abused.

It would also send a strong enough signal that some of our unfair competitors in foreign countries understand that we are serious about this. We are concerned about American jobs, fairness in international trade, and the accountability of Congress in these matters.

AMENDMENT NO. 4370, WITHDRAWN

Mr. GRASSLEY. Madam President, I will withdraw my amendment and do withdraw it, but I want to make some points.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. My amendment is withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GRASSLEY. I want to make a couple of points, some of them on the issue and some of them the situation we are in with this amendment.

This amendment has been approved by the Senate Finance Committee a

long time ago. This amendment has the support of the President of the United States. This amendment has the support of the person who will be the Republican nominee for President of the United States, a former Member of this body, Bob Dole. I would imagine, if we could get this amendment to a vote, it would carry overwhelmingly.

If anybody wonders why sometimes the political process does not work, the decisionmaking process does not work, this is a perfect example. How much better of a position should the Senate be in to get work done, passing very good legislation, when the President of the United States, who is a Democrat, thinks it ought to be done and the Republican nominee to be thinks it ought to be. If they agree on it, it seems to me it ought to have a pretty good chance of passing the Senate but not so.

Just remember, that is the situation. Also remember the situation is this in regard to the World Trade Organization, the WTO. It builds on 50 years of dispute settlement within the GATT process. There has been a dispute settlement process to have trade disputes between two countries settled for almost a half a century. The United States had a lot of trade disputes with other countries before GATT over the last half century. We would win a fair majority, a good number of those disputes.

But under the old process, the United States could win and not win. We could win because we had the facts on our side, the decisions were made in our favor, but if the country we defeated wanted to ignore the decision, they could thumb their noses at the process, thumb their noses at the United States. If we were to take action, we could be guilty of violating the GATT agreement, just because we were willing to take action to do what was said to be right for ourselves in the first place.

So the World Trade Organization has a process that will allow disputes between countries to be settled, but it also allows retaliation by a country if the country that is the loser in the process is not going to honor and respect the decision.

It seems to me that anybody who wants the United States to advance as a result of the freeing up of trade, and to have disputes settled, ought to welcome the opportunity when there is a dispute settlement process in which not only will the United States have as much of a chance of winning as ever, which seems to always be in our favor, and be able to enforce that, because if the other country will not respect it, unlike in the past, if we were to take action, it would be GATT illegal. If we are to take retaliatory action at this time, it will be GATT legal. And everybody understands that the world is better off with the freeing up of trade.

Any of the speakers on free trade, any of the speakers on GATT, have to realize that our country has more to

gain than any other country has to gain by the freeing of trade because we already have lower barriers than any other country has. If other countries under those agreements bring their barriers down, we are the winners, not the losers. And \$1 billion more in trade is 20,000 more jobs. That is not bad for America.

So I hope sometime we will be able to get this legislation passed. Again, the President of the United States, President Clinton, agrees it should be done, and Bob Dole agrees that it should be done. We should do it.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, right to the point, that is exactly what is the trouble right this minute. The Finance Committee approved GATT and the WTO. The President of the United States approved GATT and the WTO. Senator Bob Dole approved and led the fight for the approval of GATT and the WTO.

Now, why is the President this very minute in France beating up on the council of the seven economic ministers? Why is he beating up on the Japanese, trying to get their attention? Because the World Trade Organization and the GATT agreement has chilled progress in trade disputes.

Specifically, the Japanese will not even talk to us. They have WTO. They know they have the vote. So, under 301, we found out we could not use the sanctions, and if we tried to, they would retaliate against us. Not retaliate as the distinguished Senator just referred—that is exactly our dilemma.

So they say, point 1, it probably is a matter of terrorism. Because publicly the public can understand that, and we all really regret the loss. I have had 10 of those airmen—we did not lose them—we had 10 hurt in Charleston, and we had from the 9th Air Force, I would say, 30 or 40 at least flying those F-16's out of Shaw Air Base. So I do not talk casually about that.

But the real No. 1 trade issue is this dilemma we have gotten into with the World Trade Organization. We are not making any progress at all. We had a semiconductor agreement. Instead of adhering to the agreement, they ignore it now. They said, go to the WTO, go to the WTO. We know that is a loser now.

So, politically, before the American people can appreciate—and my distinguished colleague from Iowa can appreciate—the fact that the WTO is a loser, before we can learn that, let us get in ahead of the curve here, of public dependency over the trend of trade in this so-called globalization, globalization, globalization.

Specifically, I want to make one good reference that is categorically uncontested. In 1981, we had before then-President Reagan a textile bill. The deficit and the balance of trade in textiles in the United States was \$4 billion. The deficit in the European Community in textile trade was \$4 billion.

I noted just recently, of course, that the Europeans enforce their trade agreements. We do not. We act like we have these rights, and we are in there moving and we are watching and everything else of that kind. We just never have been astute to really go against these dumping cases. We have asked for more customs agents and everything else. The authorities, customs, tell us there are as much as \$5 billion in transshipments violations coming in here with this cheap clothing, way less than any kind of minimum wage, child labor and slave labor, you might call it, in the People's Republic, all being manufactured.

The deficit and the balance of trade in Europe in textiles is less than \$1 billion. The deficit in the balance of textile trade is \$35.8 billion. So, the Europeans know how to deal and enforce, and categorically have. We have taken the position of Uncle Sucker. We have done it in defense, and we know it. We have done it in all these other international organizations, and we know it. It is time we start protecting our industrial backbone.

America's strength and security rests like on a three-legged stool. We have the one leg of defense. That is unquestioned. That is what they mean by superpower. We have the leg of the values as a Nation, and that is strong. Yes, we feed the hungry in Somalia. We sacrifice for democracy, to build it in Haiti. We commit troops to try to bring peace in Bosnia. So our values, we all know, of the American good will, stand for freedom and democracy the world around.

But the third leg of economic strength, that leg was fractured over some 45 to 50 years now. The cold war, where we had to intentionally, in a sense, sacrifice that leg in order to keep the alliance together. But now, with the fall of the wall, we continue to act like we are fat, rich and happy.

The American people see it. Why do you think they followed Pat Buchanan wherever he went? Because he was talking sense on trade. I do not agree with him on many of his other stances, but he was solid as a dollar on the subject of jobs and trade. That is why he was picking up Republicans, Democrats, Independents, all, as long as he talked that sense on trade.

My workers know, for example, under NAFTA we have already lost, last year, 1995, with the closure of 21 mills, the loss of 10,000 textile jobs. Almost that many already this year have gone down to Mexico and to Malaysia. You go over to the Secretary of Labor and the fine little gentleman gives you the sing-song, "restrain, restrain, restrain."

Madam President, I wish to get your attention here. If you look at Oneida Mills that just closed—they have been there 37 years—just the other day, 487 workers, most of them female. They make T-shirts. The age average is 47 years of age.

Let us restrain them and assume tomorrow morning they are already ex-

pert computer operators. Are you going to hire the expert computer operator, 47 years of age, or the 21-year-old computer operator? The answer is obvious. You are not going to take on the retirement costs. You are not going to take on these medical costs. But that is what they continue to tell you up here. The American people are losing these jobs, losing this industry, losing, as a Nation, our economic strength.

Superpower—they are ashes in my mouth. You cannot use the nuclear bomb, we all know that. We cannot meet them man for man on manpower. We try to develop our technology, but the truth of the matter is, by the year 2000—Fingleton, read his book "Blind Side"—they will have a larger economy with 120 million and less than the size of California, compared with our 260 million.

They are already our manufacturing superior. Give them 4 more years, and they will have a larger economy than we will have. In 15 years, the People's Republic of China will be ahead of us. We are going the way of England, I can tell you that right now: a second-rate nation with a lot of parliamentary papers and scandalous newspapers, parliamentary maneuvers around here and debate, debate, debate: "I am concerned," "I am worried," "I am disturbed," "I am concerned," "I am worried," and nothing happens. It is all procedural.

That sorry contract over there on the House side was all procedural bunk. Term limits, product liability—I can just go down the list of all of those things they had in there. Constitutional amendments—it is like running up in the grandstand like a football team: "We want a touchdown." We are on the field, and we are supposed to balance the budget, but we have to hear all the procedural crap so we can get to the next election and try to get elected and try to hoodwink the people even further.

It is time we stop this nonsense and realize—I say to the distinguished Senator from Iowa that I am just as much an agricultural Senator as he is. I got up to WHO in Des Moines, IA. It was 5:30 in the morning. "No Democrat would appear." I did.

The first question for me was, "Senator, how do you expect to get any votes out here in Iowa when you are standing for all the protectionism for the textile industry?"

I said, "Wait one minute." It was a young lady. I said, "Madam, the truth of the matter is that we don't ask for any protection. What we ask for is protection of our agricultural products. We believe in price supports and import quotas and those Export-Import Bank subsidies. We've got wheat, too, and corn. We've got agricultural products."

Until I was Governor, we were an agricultural State. Now the majority are in industry today. We have to find technical training and skills, but we think highly of agriculture. So do not think we do not know about agri-

culture and jobs and wheat. We want to sell it, too, but we have to have a balanced approach to try to maintain America's industrial backbone.

So I appreciate the position of the distinguished Senator from Iowa tonight, and I hope he will give me a little bit more notice next time, because I thought once the distinguished Senator from Kansas, the former majority leader, had left us, that that was one problem solved and we could go on and get some other things done.

But I can tell you now why that passed before with all of those. We had fast track, no amendments, limited time. When your amendment comes, we will not have fast track, we will have amendments, and we will have unlimited time, and my distinguished senior Senator has set the pace for unlimited time and debate. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

PROVIDING FOR AN ADJOURNMENT OF THE TWO HOUSES

Mr. THURMOND. Madam President, I ask unanimous consent that the Senate now turn to the consideration of House Concurrent Resolution 192, the adjournment resolution, which was just received from the House; further, that the resolution be agreed to and the motion to reconsider be laid upon the table.

Mr. FORD. Madam President, reserving the right to object, I understand that this is the adjournment resolution; that the House is anxious to get out, and that is fine. But this resolution allows us to get out Thursday night, Friday night, Saturday night or Sunday night and then come back on July 8 sometime after noon, based on the time set out by the majority leader later in the day?

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. Madam President, it is my understanding, this will give us enough time to finish this bill.

Mr. FORD. Through Sunday. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 192) was agreed to, as follows:

H. CON. RES. 192

Resolved by the House of Representatives (the Senate concurring). That when the House adjourns on the legislative days of Thursday, June 27, 1996, or Friday, June 28, 1996, pursuant to a motion made by the Majority Leader or his designee, it stand adjourned until noon on Monday, July 8, 1996, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 27, 1996, Friday, June 28, 1996, Saturday, June 29, 1996, or Sunday, June 30, 1996, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, July 8, 1996 or