

funds distributed under section 4 shall not exceed 10 percent of the amount distributed to that Indian tribe under that section;

(6) the payment of attorneys' fees or expenses of the covered Indian tribe referred to in section 4(a)(2)(B) for litigation and other representation for matters arising out of the enactment of Public Law 92-555 (25 U.S.C. 1300d et seq.), in accordance, as applicable, with the contracts numbered A00C14203382 and A00C14202991, that the Secretary approved on February 10, 1978 and August 16, 1988, respectively; or

(7) the payment of attorneys' fees or expenses of any covered Indian tribe referred to in section 4(a)(2) for litigation or other representation with respect to matters arising out of this Act.

(c) **MANAGEMENT.**—Subject to subsections (a), (b), and (d), any funds distributed to a covered Indian tribe pursuant to sections 4 and 7 may be managed and invested by that Indian tribe pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) **WITHDRAWAL OF FUNDS BY COVERED TRIBES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), each covered Indian tribe may, at the discretion of that Indian tribe, withdraw all or any portion of the funds distributed to the Indian tribe under sections 4 and 7 in accordance with the American Indian Trust Fund Management Reform Act (25 U.S.C. 4001 et seq.).

(2) **EXEMPTION.**—For purposes of paragraph (1), the requirements under subsections (a) and (b) of section 202 of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4022 (a) and (b)) and section 203 of such Act (25 U.S.C. 4023) shall not apply to a covered Indian tribe or the Secretary.

(3) **RULE OF CONSTRUCTION.**—Nothing in paragraph (2) may be construed to limit the applicability of section 202(c) of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4022(c)).

#### **SEC. 6. EFFECT OF PAYMENTS TO COVERED INDIAN TRIBES ON BENEFITS.**

A payment made to a covered Indian tribe or an individual under this Act shall not—

(1) for purposes of determining the eligibility for a Federal service or program of a covered Indian tribe, household, or individual, be treated as income or resources; or

(2) otherwise result in the reduction or denial of any service or program to which, pursuant to Federal law (including the Social Security Act (42 U.S.C. 301 et seq.)), the covered Indian tribe, household, or individual would otherwise be entitled.

#### **SEC. 7. DISTRIBUTION OF FUNDS TO LINEAL DESCENDANTS.**

(a) **IN GENERAL.**—Subject to section 8(e), the Secretary shall, in the manner prescribed in section 202(c) of Public Law 92-555 (25 U.S.C. 1300d-4(c)), distribute to the lineal descendants of the Sisseton and Wahpeton Tribes of Sioux Indians an amount equal to 71.6005 percent of the funds described in section 3, subject to any reduction determined under subsection (b).

(b) **ADJUSTMENTS.**—

(1) **IN GENERAL.**—Subject to section 8(e), if the number of individuals on the final roll of lineal descendants certified by the Secretary under section 201(b) of Public Law 92-555 (25 U.S.C. 1300d-3(b)) is less than 2,588, the Secretary shall distribute a reduced aggregate amount to the lineal descendants referred to in subsection (a), determined by decreasing—

(A) the percentage specified in section 4(a)(B)(ii) by a percentage amount equal to—

(i) .0277; multiplied by

(ii) the difference between 2,588 and the number of lineal descendants on the final roll of lineal descendants, but not to exceed 600; and

(B) the percentage specified in subsection (a) by the percentage amount determined under subparagraph (A).

(2) **DISTRIBUTION.**—If a reduction in the amount that otherwise would be distributed

under subsection (a) is made under paragraph (1), an amount equal to that reduction shall be added to the amount available for distribution under section 4(a)(1), for distribution in accordance with section 4(a)(2).

(c) **VERIFICATION OF ANCESTRY.**—In seeking to verify the Sisseton and Wahpeton Mississippi Sioux Tribe ancestry of any person applying for enrollment on the roll of lineal descendants after January 1, 1998, the Secretary shall certify that each individual enrolled as a lineal descendant can trace ancestry to a specific Sisseton or Wahpeton Mississippi Sioux Tribe lineal ancestor who was listed on—

(1) the 1909 Sisseton and Wahpeton annuity roll;

(2) the list of Sisseton and Wahpeton Sioux prisoners convicted for participating in the outbreak referred to as the "1862 Minnesota Outbreak";

(3) the list of Sioux scouts, soldiers, and heirs identified as Sisseton and Wahpeton Sioux on the roll prepared pursuant to the Act of March 3, 1891 (26 Stat. 989 et seq., chapter 543); or

(4) any other Sisseton or Wahpeton payment or census roll that preceded a roll referred to in paragraph (1), (2), or (3).

(d) **CONFORMING AMENDMENTS.**—

(1) **IN GENERAL.**—Section 202(a) of Public Law 92-555 (25 U.S.C. 1300d-4(a)) is amended—

(A) in the matter preceding the table—

(i) by striking " , plus accrued interest, " ; and

(ii) by inserting " plus interest received (other than funds otherwise distributed to the Sisseton and Wahpeton Tribes of Sioux Indians in accordance with the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998), " after " docket numbered 359, " ; and

(B) in the table contained in that subsection, by striking the item relating to " All other Sisseton and Wahpeton Sioux " .

(2) **ROLL.**—Section 201(b) of Public Law 92-555 (25 U.S.C. 1300d-3(b)) is amended by striking " The Secretary " and inserting " Subject to the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998, the Secretary " .

#### **SEC. 8. JURISDICTION; PROCEDURE.**

(a) **ACTIONS AUTHORIZED.**—In any action brought by or on behalf of a lineal descendant or any group or combination of those lineal descendants to challenge the constitutionality or validity of distributions under this Act to any covered Indian tribe, any covered Indian tribe, separately, or jointly with another covered Indian tribe, shall have the right to intervene in that action to—

(1) defend the validity of those distributions; or

(2) assert any constitutional or other claim challenging the distributions made to lineal descendants under this Act.

(b) **JURISDICTION AND VENUE.**—

(1) **EXCLUSIVE ORIGINAL JURISDICTION.**—Subject to paragraph (2), only the United States District Court for the District of Columbia, and for the districts in North Dakota and South Dakota, shall have original jurisdiction over any action brought to contest the constitutionality or validity under law of the distributions authorized under this Act.

(2) **CONSOLIDATION OF ACTIONS.**—After the filing of a first action under subsection (a), all other actions subsequently filed under that subsection shall be consolidated with that first action.

(3) **JURISDICTION BY THE UNITED STATES COURT OF FEDERAL CLAIMS.**—If appropriate, the United States Court of Federal Claims shall have jurisdiction over an action referred to in subsection (a).

(c) **NOTICE TO COVERED TRIBES.**—In an action brought under this section, not later than 30 days after the service of a summons and complaint on the Secretary that raises a claim identified in subsection (a), the Secretary shall send a copy of that summons and complaint, together with any responsive pleading, to each covered

Indian tribe by certified mail with return receipt requested.

(d) **STATUTE OF LIMITATIONS.**—No action raising a claim referred to in subsection (a) may be filed after the date that is 365 days after the date of enactment of this Act.

(e) **SPECIAL RULE.**—

(1) **FINAL JUDGMENT FOR LINEAL DESCENDANTS.**—

(A) **IN GENERAL.**—If an action that raises a claim referred to in subsection (a) is brought, and a final judgment is entered in favor of 1 or more lineal descendants referred to in that subsection, section 4(a) and subsections (a) and (b) of section 7 shall not apply to the distribution of the funds described in subparagraph (B).

(B) **DISTRIBUTION OF FUNDS.**—Upon the issuance of a final judgment referred to in subparagraph (A) the Secretary shall distribute 100 percent of the funds described in section 3 to the lineal descendants in a manner consistent with—

(i) section 202(c) of Public Law 92-555 (25 U.S.C. 1300d-4(c)); and

(ii) section 202(a) of Public Law 92-555, as in effect on the day before the date of enactment of this Act.

(2) **FINAL JUDGMENT FOR COVERED INDIAN TRIBES.**—

(A) **IN GENERAL.**—If an action that raises a claim referred to in subsection (a) is brought, and a final judgment is entered in favor of 1 or more covered Indian tribes that invalidates the distributions made under this Act to lineal descendants, section 4(a), other than the percentages under section 4(a)(2), and subsections (a) and (b) of section 7 shall not apply.

(B) **DISTRIBUTION OF FUNDS.**—Not later than 180 days after the date of the issuance of a final judgment referred to in subparagraph (A), the Secretary shall distribute 100 percent of the funds described in section 3 to each covered Indian tribe in accordance with the judgment and the percentages for distribution contained in section 4(a)(2).

(f) **LIMITATION ON CLAIMS BY A COVERED INDIAN TRIBE.**—

(1) **IN GENERAL.**—If any covered Indian tribe receives any portion of the aggregate amounts transferred by the Secretary to a Fund Account or any other account under section 4, no action may be brought by that covered Indian tribe in any court for a claim arising from the distribution of funds under Public Law 92-555 (25 U.S.C. 1300d et seq.).

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to limit the right of a covered Indian tribe to—

(A) intervene in an action that raises a claim referred to in subsection (a); or

(B) limit the jurisdiction of any court referred to in subsection (b), to hear and determine any such claims.

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

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

#### **DENIAL OF BENEFITS TO DEVELOPING COUNTRIES THAT VIOLATE INTELLECTUAL PROPERTY RIGHTS**

Mr. CRAIG. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. Con. Res. 124, and the Senate then proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 124) expressing the sense of Congress regarding the denial of benefits under the Generalized System of Preferences to developing countries that violate the intellectual property rights of U.S. persons, particularly those that have not implemented their obligations under the Agreement on Trade-related aspects of intellectual property.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 3823

Mr. CRAIG. Mr. President, Senator LAUTENBERG has an amendment at the desk to the resolution, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. LAUTENBERG, proposes an amendment numbered 3823.

The amendment is as follows:

On page 3, line 5, strike all in the line after "that" and insert: "is not making substantial progress towards adequately and effectively protecting".

Mr. CRAIG. Mr. President, I ask unanimous consent that the amendment be agreed to, that the concurrent resolution, as amended, be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table without intervening action.

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

The amendment (No. 3823) was agreed to.

The concurrent resolution (S. Con. Res. 124) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 124

Whereas intellectual property-dependent industries include businesses that depend on protection of trademarks, trade secrets, trade names, copyrights, and patents;

Whereas intellectual property-dependent industries have become primary drivers of the United States economy, contributing over \$500,000,000,000 to the United States economy in 1997;

Whereas the foreign sales and exports of United States intellectual property-dependent goods totaled at least \$100,000,000,000 in 1997, exceeded sales of every other industrial sector, and helped the United States balance of trade;

Whereas international piracy of United States intellectual property, which the Department of Commerce estimates costs United States companies nearly \$50,000,000,000 annually, poses the greatest threat to the continued success of United States intellectual property-dependent industries;

Whereas goods from many developing countries receive preferential duty treatment under the Generalized System of Preferences even though those countries do not protect intellectual property rights of United States persons;

Whereas piracy of United States intellectual property is so rampant in some developing countries that receive benefits under the Generalized System of Preferences that it effectively prevents United States intellectual

property-dependent industries from selling products in those countries;

Whereas the Agreement on Trade-Related Aspects of Intellectual Property Rights requires its signatories to provide a minimum of essential protections to the intellectual property of citizens from all signatory nations;

Whereas the United States has fully implemented its obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights, and in fact in many cases offers stronger protection of intellectual property rights than required in the Agreement;

Whereas it appears that at the current rate many developing countries that receive benefits under the Generalized System of Preferences may not be in compliance with their obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights on January 1, 2000, as required; and

Whereas many of the developing countries that receive benefits under the Generalized System of Preferences and that are not on track in complying with their obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights are responsible for substantial trade losses suffered by United States intellectual property-dependent industries: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—*

(1) the United States should not give special trade preferences to goods originating from a country that is not making substantial progress towards adequately and effectively protecting United States intellectual property rights, particularly a developing country that has not met its obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights by January 1, 2000;

(2) Congress should monitor the progress of developing countries in meeting their obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights by January 1, 2000; and

(3) Congress should consider legislation that would deny the benefits of the Generalized System of Preferences to developing countries that are not in compliance with their obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights beginning on January 1, 2000.

ESTUARY HABITAT RESTORATION PARTNERSHIP ACT OF 1998

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 507, S. 1222.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1222) to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Estuary Habitat Restoration Partnership Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ESTUARY HABITAT RESTORATION

Sec. 101. Findings.

Sec. 102. Purposes.

Sec. 103. Definitions.

Sec. 104. Establishment of Collaborative Council.

Sec. 105. Duties of Collaborative Council.

Sec. 106. Cost sharing of estuary habitat restoration projects.

Sec. 107. Monitoring and maintenance of estuary habitat restoration projects.

Sec. 108. Cooperative agreements; memoranda of understanding.

Sec. 109. Distribution of appropriations for estuary habitat restoration activities.

Sec. 110. Authorization of appropriations.

Sec. 111. National estuary program.

Sec. 112. General provisions.

TITLE II—CHESAPEAKE BAY AND OTHER REGIONAL INITIATIVES

Sec. 201. Chesapeake Bay.

Sec. 202. Chesapeake Bay gateways and water trails.

Sec. 203. Pfiesteria and other aquatic toxins research and grant program.

Sec. 204. Long Island Sound.

TITLE I—ESTUARY HABITAT RESTORATION

SEC. 101. FINDINGS.

Congress finds that—

(1) estuaries provide some of the most ecologically and economically productive habitat for an extensive variety of plants, fish, wildlife, and waterfowl;

(2) the estuaries and coastal regions of the United States are home to one-half the population of the United States and provide essential habitat for 75 percent of the Nation's commercial fish catch and 80 to 90 percent of its recreational fish catch;

(3) estuaries are gravely threatened by habitat alteration and loss from pollution, development, and overuse;

(4) successful restoration of estuaries demands the coordination of Federal, State, and local estuary habitat restoration programs; and

(5) the Federal, State, local, and private cooperation in estuary habitat restoration activities in existence on the date of enactment of this Act should be strengthened and new public and public-private estuary habitat restoration partnerships established.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to establish a voluntary program to restore 1,000,000 acres of estuary habitat by 2010;

(2) to ensure coordination of Federal, State, and community estuary habitat restoration programs, plans, and studies;

(3) to establish effective estuary habitat restoration partnerships among public agencies at all levels of government and between the public and private sectors;

(4) to promote efficient financing of estuary habitat restoration activities; and

(5) to develop and enhance monitoring and research capabilities to ensure that restoration efforts are based on sound scientific understanding.

SEC. 103. DEFINITIONS.

In this title:

(1) COLLABORATIVE COUNCIL.—The term "Collaborative Council" means the interagency council established by section 104.

(2) DEGRADED ESTUARY HABITAT.—The term "degraded estuary habitat" means estuary