limits approved by the Senate. The only change in this provision made by the House was to increase the aggregate limits.

3. Hard Dollar Candidate Support by Parties—This is a proposed substantive change to the pending CFR legislation. The proposal would allow parties to make both independent and coordinated expenditures in individual races.

The requirement that the parties choose between these expenditures was contained in both the Senate and House-passed bills and is not inconsistent with the Colorado I decision. For purposes of this provision only, national and state party committees are treated as a single entity. Otherwise, the provision would not be effective because, for example, a national party could choose to make coordinated expenditures, and then transfer additional funds to a local party to use for independent expenditures.

Parties should not be able to claim that they are independent of one of their candidates if, during the general election period, they are making coordinated expenditures with that same candidate under section 441a(d) of the FECA. Permitting both coordinated and independent expenditures by a party makes meaningless the coordinated spending limits recently upheld by the Supreme Court in Colorado II. Furthermore, since the bill provides that the choice between making independent or coordinated expenditures is made by the party only after a candidate is nominated, the national party will be able to control the decision of which kind of spending to undertake. In addition, contrary to the claim made in the proposal, there is no general restriction on transferring hard money between national and state parties.

4. Excess Campaign Funds—This is a proposed technical clarification. The proposal seeks to add the words ''without limitation'' to the portion of the personal use provision of the bill that deals with transfers of excess campaign funds by candidates to political parties.

There was no intention to change longstanding federal election law that permits candidates to transfer excess campaign funds without limitation to their parties. This can be clarified in a colloquy or in a technical corrections bill if there is one.

5. PAC Contribution Limit—This is a proposed substantive change. The proposal would index the limits on how much can be contributed to and from PACs.

Increasing or indexing PAC contribution limits was considered and rejected in bipartisan negotiations on contribution limits during Senate consideration of the bill. The decision represents a position that the role of PACs in financing elections should not be increased. The Senate agreement was not changed in the House.

6. 2002 Run-off Elections Unfairly Impacted—This is a proposed substantive change to the pending CFR legislation. The proposed revision suggests changing the effective date with respect to runoff elections. This would allow soft money to be raised after November 5, 2002.

In deciding to delay the effective date of the bill so that it would not apply to the 2002 elections, a very clear decision was made that no soft money should be raised after election day. With respect to other provisions of the bill, such as the spending of excess soft money and electioneering communications, the suggestion that the bill not apply to runoff elections related to the 2002 elections can be dealt with in a floor colloquy or in a technical corrections bill if there is one.

7. *Building Fund*—The proposal has two parts. One is a substantive change, the other is not. The substantive change would allow the national parties to spend their excess soft money on buildings without any time limitation. The non-substantive portion of the proposal would make clear that state party building funds are governed solely by state law.

A provision allowing the national parties to spend their excess soft money on buildings was included in the House bill that went to the floor. It was vigorously attacked by the Republican leadership in the House, which claimed that it was a special advantage for the DNC. The provision was stripped from the bill by an amendment on the House floor that was overwhelmingly supported by Republicans. The Senate bill contained no special exemptions for national party buildings.

There is nothing in the House-passed bill that regulates state party building funds. This concern can be addressed in a floor colloquy, or a separate technical corrections bill if there is one.

8. *Ensure Unintended Litigation Does Not Result*—This is a substantive proposal that has two parts. The first part suggests defining ''solicitation.'' Separately, the proposal would eliminate the increase in the statute of limitations from three to five years that was added to the bill by the Thompson-Lieberman amendment.

Like many other terms in the bill, ''solicitation'' will be subject to definition by the FEC in regulations. A statutory definition could also be included in a separate technical corrections bill if there is one and if agreement on the definition of the term can be reached.

The increase in the statute of limitations from three to five years resulted from Senators Thompson and Lieberman's concern that wrongdoing in the 1996 election was not being effectively pursued by the Justice Department. A five year statute of limitations is common in the federal criminal law. Both the House and Senate bills lengthened the statute of limitations and did not contain a definition of solicitation. No question about either of these issues was raised during floor consideration in either body.

9. *Coordination*—This is a substantive proposal. The proposal claims to offer ''modest changes'', but in fact would make significant changes to coordination language that was passed by the Senate, and included in the House bill.

Contrary to the proposal's claim, the bill does not provide a new definition of ''coordination.'' The bill repeals recently adopted FEC regulations on coordination and directs the FEC to issue new regulations. It requires the FEC to address certain topics in the rulemaking, but does not dictate what the FEC should decide. The bill also specifies that ''agreement'' or ''formal collaboration'' are not required for coordination to exist.

This direction is given because the current regulations allow blatant coordination to occur between candidates and outside groups in issue ads and other campaign-related activities simply by never entering into an ''agreement'' or ''formal collaboration.''

Contrary to the suggestion in the proposal, nothing in the bill even remotely suggests that a candidate's raising money for a group would alone trigger a finding that the group's spending on voter registration activity is coordinated with the candidate.

10. *Effect on State Candidates*—The proposal suggests a non-substantive, but unnecessary change. The proposal seeks to clarify that state candidates may ''align themselves'' with federal candidates in their solicitations and campaign activities, including advertisements.

The bill already permits state candidates to publicize endorsements from federal candidates or align themselves with a federal candidate's views. However, the bill prohibits state candidates from spending soft money to promote or attack federal candidates through general public political advertising.

11. *Time Limit For Expedited Judicial Review*—The proposal seeks to limit the expedited judicial review provision of the bill to suits brought shortly after enactment.

The expedited review provisions in the Senate and House-passed bills were not limited in this way. The expedited review provisions assure that decisions that could affect ongoing campaigns will be made promptly. These provisions will be useful even years after enactment.

By requiring all suits challenging the constitutionality of the bill to be brought in the District of Columbia, the bill avoids the conflicts between the circuit courts that have created uncertainty in current law. The provision also requires these cases to be heard by three-judge panels. Given the importance of the election law to campaigns, there is no reason to force suits to be brought within a specific time period after enactment in order to qualify for expedited treatment. The Supreme Court can summarily affirm the lower court's decision if it chooses, so this provision need not be a burden on the Court's docket.

If agreement can be reached on revised judicial review procedures, it can be included in a technical corrections bill if there is one.

12. *Court Challenges*—The proposal would give Members of Congress a statutory right to challenge the campaign finance reform law directly.

The existing intervention provisions of the bill give Members of Congress on both sides of the issue the ability to participate equally in litigation concerning the constitutionality of the Act. Members of Congress may already have standing to challenge the Act in court, and Congress cannot grant constitutional standing where it does not already exist. Issues relating to standing by members could be addressed in a separate technical corrections bill if there is one, as long as members on both sides of the issue are treated similarly.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2002—Continued

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, when the Senator from Montana referred to me as a producer, he was referring to the State of Oklahoma which is a production State. I don't think inadvertently he also referred to me as a producer. And I was.

I started out at the age of 17 in the oil fields. At that time, I was a tool dresser. Not many people know what a cable tool rig is. I was a tool dresser on a cable tool rig. There is no harder work in the world than being a tool dresser on a cable tool rig. That was before rotaries. Mostly, they were marginal wells—shallow wells.

Mr. BURNS. Mr. President, will the Senator yield?

Mr. INHOFE. Certainly.

Mr. BURNS. The Senator must have been pretty good at it. He still has all of his fingers and thumbs.

Mr. INHOFE. I suggest to the Senator that he is one of the few Senators who know what I am talking about. When you picked up a cable tool—it

weighed several hundred pounds—if you did not open up your hands in time, it went right down in there. I have a lot of friends who can't play the guitar anymore.

Frankly, I almost ended up in this business. It is a very admirable business. When we talk about economic development and economic stimulus, I think often about the oil fields in Oklahoma. I was a very young child at that time. We are talking about 50 years ago. I remember going to get lunch. You had to stand in line and wait to pay your ticket. That was back in the days when we really had economic stimulus. It came from this energy. That is something we don't talk about very much, but it is a very real thing, and it is particularly real when you personally experience it.

But I have to say that my major concern right now with our energy crisis with which we are faced—and it is a crisis—is how it affects our ability to defend America. I spent about 4 years chairing the Armed Services Subcommittee on Readiness. I am now ranking member. I see what our readiness problems are and what our military problems are as they relate to our dependency on foreign countries for our ability to fight a war. Several Members mentioned—including the Senator from Montana—that our dependency is directly related to our ability to be independent and to be strong. If we are dependent on Iraq for our ability to fight a war against Iraq, that is a crisis. That is a situation we are in right now. We are dependent upon foreign countries for our ability to fight a war.

But here are the facts. I think it is important that we talk about this from a military perspective.

First of all, the military is as dependent on foreign oil as the general public is. It takes eight times as much oil to meet the needs for each U.S. soldier as it did during World War II. In addition to that, the Department of Defense accounts for 80 percent of all Government energy use.

For all practical purposes, we are talking about the defense ramifications of this use. It is not like it was in World War II. Now it takes eight times as much oil. It is a very serious problem.

Iraq is the fastest growing contributor to our dependency. People do not understand that. They say: Wait a minute. Aren't we at war with Iraq? I guess by some definition you would have to say we are. They are shooting down our UAVs that are flying over some of the zones trying to protect us, as is required by U.N. resolution. Yet Iraq is the fastest growing source for United States oil imports. Shockingly, in the year 2000, $5 billion of American money went to Iraq to buy oil.

There is a lot of talk about sanctions. I am a believer in sanctions, if sanctions are going to really accomplish something. But how can we have sanctions against a country when we are paying them $5 billion in America money to buy the oil, particularly when that is used to defend America?

America's energy consumption is on the rise, but we are producing less domestic oil than at any time since World War II. Our dependency on foreign oil has dramatically increased since 1973, and it is projected to continue to increase—currently, about 60 percent. You hear 57 percent. You can justify some 60 percent, depending on how you calculate it. Sixty percent of U.S. oil needs are met by foreign sources.

In the mid-1980s, I traveled around the country with Don Hodel. Don Hodel was Secretary of the Interior. He was also Secretary of Energy. This was back during the Reagan administration. At that time, we were about 38 percent dependent on foreign countries for our oil. Don Hodel and I went to States that are consumption States and not production States, and explained to them that our dependency on foreign countries for our ability to fight a war was a national security issue—not an energy issue. In fact, we had a little dog-and-pony show. We would go back to, and including, the First World War. And every war since then has been won by the country that had control of the energy supply. You can't name one country that wasn't.

There were a lot of people who listened to us. We were in Illinois, in New York, in New Jersey, and in different States, trying to tell that story. It didn't sell too well then.

After the Persian Gulf war, people started listening and realizing that there is a relationship between our ability to be energy sufficient and the danger that we are facing.

In both 1995 and 1999, the Secretary of Commerce acknowledged, pursuant to a law requiring his assessment, that our oil dependency poses a threat to our national security. Keep in mind, this is before September 11. Additionally, in January of 1998, I elicited virtual consensus from all members of the Joint Chiefs of Staff that energy security was a too-often overlooked aspect of our national security needs.

After September 11, Deputy Secretary of Defense Paul Wolfowitz said that U.S. dependency on foreign oil—now, this happened in a public hearing where we were; and I asked him the question about how it relates to our national security—he said that U.S. dependency on foreign oil "is a serious strategic issue . . . My sense is that [our] dependency is projected to grow, not to decline . . . it's not only that we would, in a sense, be dependent on Iraqi oil, but the oil as a weapon. The possibility of taking that oil off the market and doing enormous economic damage with it is a serious problem."

That is the Deputy Secretary of Defense, Paul Wolfowitz.

The President made energy a top national priority. He said it over and over again. Sometimes I wonder if people are listening. In an overwhelmingly bipartisan manner, the House of Representatives adopted a comprehensive energy policy which includes provisions to modernize conservation and infrastructure, increase domestic energy supplies, and accelerate the protection of the environment.

But that is not all that H.R. 4 has. H.R. 4 is a comprehensive approach to meet our energy needs. We have nuclear in there; we have oil and gas production. Let's just take the marginal production I have been concerned about, because my State happens to be a major producer, or they used to be, of marginal wells.

A marginal well is a well that produces 15 barrels of oil or less a day. If we had all the oil that would have come from margin wells that have been plugged in the last 10 years flowing again today, it would produce more oil than we are currently importing from Saudi Arabia. That is a huge source. That is part of H.R. 4.

H.R. 4 also has renewables in it. People are talking about renewables. It has nuclear. Right now, to meet our energy needs to light our lights in America, we are only 20 percent dependent on nuclear energy. France is 80 percent dependent. Those very people who were marching and protesting back in the 1970s against nuclear plants now realize, after all the ambient air problems that have been coming up, that nuclear energy is among the safest, the cheapest, and the most abundant energy available, yet we are not using it.

That is why I offered the energy bill as an amendment to last year's Defense authorization bill. Here I am on the Armed Services Committee. I had chaired the Subcommittee on Readiness. I offered the energy bill to the Defense authorization bill so people would somehow reprogram their thinking and realize we were talking about a defense issue. We are talking about a national security issue when we talk about our energy dependence. So I offered it, and I was glad I did.

We, of course, are addressing energy legislation today. I am really highly troubled by the bizarre legislative path that this legislation has traveled. I know we have talked about this quite a bit. I hope the majority leader will allow fair up-and-down votes on issues such as ANWR. We need to vote on it.

I wish it were required for everyone who is going to be voting on ANWR to take a trip up to the north slopes of Alaska to see what we are really talking about. It is not a pristine wilderness. We are only talking about a very small, a minuscule part of that area up there, and we are talking about an environment where the Eskimos, the local people, are begging us to come in and open it up.

So we do not need just any bill; the Senate owes our country a strong energy bill, which should include hydraulic fracturing. Hydraulic fracturing is a system where water is forced in, in order to be able to produce the oil.

Some 80 percent of the wells now use hydraulic fracturing. In the last 15 years, we have had 100,000 wells that have used that process. There has never been any environmental problem with it.

Since 1940, when we started this process, there have been over 1 million wells that have used hydraulic fracturing. But some court came along and said they were going to have to look at the environmental concerns that go along with hydraulic fracturing. Wait a minute. If we have done a million wells, as we have, using that process, and there has never been a problem, why are we concerned about it?

We need to have a strong energy bill that has the tax incentives for domestic oil production. I have talked about that. We have a tremendous opportunity there. But, you see, you cannot go after marginal wells because it costs 10 times as much to lift a barrel of oil that way than it does in Saudi Arabia. So you have to have some type of protection in there so that a person who is making an investment in a well today—recognizing they are not going to have any production out of that well for a couple years—how do they know what the price is going to be when it escalates from $8 a barrel to $40 a barrel, and then goes back to $8 a barrel? There is no way they can afford to take that kind of a risk. Certainly, the Presiding Officer is someone who has been in the business world, and he understands that. You have to have an idea of what kind of investment return is going to be out there. H.R. 4 has that in it. We need to have that in our bill. It said, if the price goes down, and it starts going below $17 a barrel, as it approaches $14 a barrel, tax credits set in, so they know it is not going to go below that. It is a way of getting another large block of oil domestically.

Corporate average fuel economy, the CAFE standards, while every single Senator has sworn an oath to uphold a government of the people, by the people, and for the people, some in this body seek to thwart the will of the people who drive vehicles and who express their will every day when they purchase vehicles at auto dealerships. It is called choice. This is America. We are supposed to have freedom of choice.

In greater numbers than ever before, all across this country, and particularly in my State of Oklahoma, Americans are purchasing minivans, sport utility vehicles, light trucks, and roomy cars for their safety, comfort, and utility.

I strongly support Americans' safety and ability to select whatever vehicle we deem fit for our purposes. We are not ''one size fits all.'' We are different people. I have 4 children and 11 grandchildren. I suggest to the Senator from Ohio, you try putting them in a compact car. They just don't fit. Our needs are different.

I think the bill should exclude renewable portfolio standards, RPS. The left again seeks to encroach upon the free market and the business of America through attempts to limit the use of coal, oil, natural gas, hydroelectric, and nuclear energy in an era when America is trying to ward off energy crises. We need all of the above. All of those things should be a part of this bill. But by shrinking the allowable percentage of power coming from these sources, we hamstring our ability to deliver needed energy and we weaken our Nation.

Price-Anderson. This is going to be controversial. It should not be controversial. This is a way that will allow us to get and expand into nuclear energy. Currently, 103 U.S. nuclear units supply about 20 percent of the electricity produced in the United States. Going forward into the future, nuclear energy must be a key component of any national energy plan. As ranking member of the subcommittee of jurisdiction, I believe the first step in that direction must be the reauthorization of Price-Anderson.

Finally, I would like to address the impact of overly burdensome regulations on our energy supply. In a recent report entitled ''U.S. Downstream: The EPA Takes Another Bite Out of America's Fuel Supply,'' Merrill Lynch concluded that EPA's clean air regulations ''will clearly have the impact of reducing existing U.S. refining capacity.'' In other words, the United States will have a greater dependency on foreign refineries.

When the price of gasoline goes through the roof, we all witness the incredibly irresponsible accusations that big oil companies ''were colluding.'' Price spikes occurred last summer because of the large number of poorly implemented environmental regulations. I have sat on that committee for 8 years now. We are at virtually 100 percent refinery capacity in this country. We started having new start reviews. We started having more and more regulations that really have nothing to do with the environment, and then we wonder why the price of fuel goes up.

It is supply and demand. We should know something about that in this country. When we are at 100 percent, we have more regulations that cost more money, and then some of the refineries leave and go down to Mexico. Then we can't even meet the current needs. What is going to happen? The price is going to go up.

The solution to high prices is not found in cheap political gimmicks such as releasing oil from the Strategic Petroleum Reserve. Rather, the solution relies on a national energy policy and having a highly effective and streamlined environmental regulation.

This is not a partisan notion. Going all the way back to the Carter administration, I tried to get them to have a national energy policy. Then Reagan came along. I thought we could get it in a Republican administration. I tried to get the Reagan administration to do it. They wouldn't do it. I tried along with Don Hodel, who worked in the Reagan administration. Then along came George the 1st from the oil patch. I thought, surely we will have a national energy policy at this time. He didn't have one. Of course, we haven't had one since.

We have that opportunity now. This President is committed to having a national energy policy.

When well thought out and reflecting consensus, environmental regulations can certainly provide benefits to the American people. But when regulations are rushed into effect without adequate thought, they are going to do more harm than good.

I see the Senator from Ohio in the Chamber. I remember before he was in the Senate, I held a hearing in the State of Ohio on new source review. We had testimony from refiners that replacing a 12-inch pipe triggered a new source review which cost millions of dollars in that case.

As a Senator and a grandfather, I want to ensure the cleanest environment in our Nation. However, I am convinced that environmental regulations can be harmonized with energy policy. Our current situation demands it.

I know that the extremist environmental community opposes any of the provisions and reforms which I have discussed. However, the environmental community does not have to answer to the American people when energy prices go through the roof. Nor does the environmental community have to worry about the national security implications of greater dependency on foreign oil.

My major concern, the reason I put this on H.R. 4 as an amendment to the defense authorization bill, is because I can't think of any single thing that plays a greater role in our future national security than becoming energy independent. Again, it is ludicrous that we should have to be dependent upon Iraq oil to fight a war against Iraq. It doesn't make sense. It is time we start making some sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BAYH. Mr. President, as we begin debate on comprehensive energy legislation, it is important to remember that a diversity of energy concerns has brought us to this point. Because current energy supplies are relatively high and gasoline prices are relatively low, there are those that may want to postpone the difficult decisions required by comprehensive action. I rise today to remind my colleagues of our energy history and that, to avoid repeating the energy crises of the past, we need to act now.

A quick review of just the last four years reveals the breadth of the energy issues that we must address. At the end of 1998, oil prices were so low they threatened the viability of the domestic oil industry; in the spring of 1999, they soared to record levels. Severe weather and transportation problems

combined to create a home heating oil crisis in the Northeast the following winter. At the start of the summer of 2000, people in the Midwest were paying record prices for petroleum products. Later that summer, a decaying gas pipeline in New Mexico exploded, killing an entire family.

The winter of 2000 brought new challenges. Consumers were paying an average 30 percent more to heat their homes than they had the previous year. The summer of 2001 saw the collapse of the California electricity market, with blackouts and previously unthinkable electricity prices. Last fall, we began a war against terror that may impact our supplies of oil from the Middle East.

Energy policy is about more than the price of gasoline at the pump today. A comprehensive energy policy will require thoughtful, and often difficult, choices today to ensure secure, affordable and sustainable energy in the future. The bill before us addresses many of these choices. It aims to secure new, as well as traditional, energy supplies; promote investment in critical infrastructure; expand technology options; reduce energy use and promote energy markets that protect consumers and the environment.

I would like to highlight just a few of the provisions in this bill that I believe advance these objectives. Many of these are items that I worked with Chairman BINGAMAN to have included in this bill and I thank him for his assistance and support.

First, among the bill's efforts to increase our short-term energy security, is a provision that Senator LANDRIEU and I developed directing that the Strategic Petroleum Reserve be filled to capacity. It also requires a review to determine whether the size of the Reserve and our capacity for refining and transporting the Reserve oil are adequate to respond to a severe supply disruption. The bill also moves the Nation toward greater long-term security by providing incentives for development of Alaska's natural gas resources. Other provisions to expand the use of renewable fuels for transportation will ease both short- and long-term supply uncertainties, while reducing the environmental costs of petroleum.

The energy bill also acknowledges the critical role that innovation and technology deployment will play in our long-term energy strategy. The bill expands energy research and development in traditional as well as alternative energy. This bill also calls for the Department of Energy to identify ways to accelerate innovation and reduce barriers to technology development.

The tax provisions of the bill, which I understand will be added at a later date, also aim to balance incentives for increasing conventional and alternative energy supplies, including credits for marginal oil well production, clean coal technology and renewable energy production. In addition to supply incentives, the package contains provisions to address energy demand, including credits for efficient cars, homes and appliances which will help to reduce energy use while promoting technology development.

Another way that I believe that the Federal Government can play a significant role in promoting efficient technologies is by using its own purchasing power. Last year, I introduced a bill, S. 1358, to provide resources and enhance accountability for the Federal Government's efforts to improve its own efficiency and reduce its energy use. The bill would establish energy reduction goals and performance standards for Federal buildings and fleets; ensure that Federal procurement policies promote purchases of the most efficient equipment and supplies and create a Federal revolving fund, or ''energy bank'' to help agencies finance efficiency improvements. Many of these initiatives have been incorporated into the bill before us; I believe they will reduce the Federal energy bill and build the market for efficiency technologies.

Another area in which the bill provides assistance for advanced energy technologies is a voluntary demonstration program, which I also supported, to help schools and communities secure newer school buses that use clean diesel and natural gas technology. A growing market will help to bring down the cost of these new technologies and let communities reap the air quality benefits in the process.

The bill also recognizes the requirements of new energy markets. For instance, S. 517 replaces the archaic Public Utility Holding Company Act of 1935 with regulatory and oversight mechanisms that protect the consumer in the modern marketplace and promote investment in the energy sector. It also acknowledges that effective energy planning must occur across State lines and provides for regional energy coordination without undermining States' authority.

These are just a few of the important ideas in the bill that deserve support; there are many more. There are also many difficult issues that will need to be resolved. We will not all be able to agree on every provision in this bill, but it is critical that we work across party and regional lines to find compromise where we can and move forward with a comprehensive policy. The alternative is to persist in our national amnesia about our energy problems, ensuring that the spiking prices, infrastructure failures and energy insecurity of the past become part of our future.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business.

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

WTO DISPUTE

Mr. DODD. Mr. President, on February 1, 2002, the World Trade Organization adopted a report by its Appellate Body that concluded that a U.S. law known as Section 211 violates U.S. obligations to protect and enforce intellectual property rights under the Agreement on Trade Related Aspects of Intellectual Property Rights, TRIPS. The WTO urged the United States to take the necessary steps to bring the United States into compliance with its international obligations. This decision provides Congress with an opportunity—a chance to reaffirm our commitment to the protection of intellectual property rights by repealing Section 211 in its entirety.

Section 211 is a special interest provision that was added into the FY 1999 Omnibus Appropriations Act at the behest of Bacardi, Ltd., a Bermuda-based corporation, just prior to enactment. It was not considered in conference, in any committee, or on the floor of either House of Congress. This ill-conceived provision triggered the WTO complaint against the United States and has undermined U.S. leadership in promoting strong protection for intellectual property rights in the global marketplace.

The Appellate Body concluded that key provisions of Section 211 violate two fundamental principles of WTO rules—national treatment and most-favored-nation treatment—which prohibit WTO members from discriminating against intellectual property right holders based on nationality. For over 100 years, these principles have obligated our trading partners to protect U.S. trademark and trade name holders from discrimination abroad. The Appellate Body found, however, that Section 211 violated these longstanding U.S. obligations by imposing obstacles on foreign intellectual property right holders that do not exist for U.S. and other nationals.

The United States cannot appeal the Appellate Body's conclusion that Section 211 clearly violates WTO rules. Following last week's formal adoption of the Appellate Body report by the WTO's Dispute Settlement Body, the United States has only a short time to correct its violations and come into compliance with WTO rules. If the United States fails to do so, it will have to offer compensation or face possible retaliatory measures against U.S. intellectual property right holders and other trade interests.

Even more troubling than the threat of retaliation, however, is the fact that Section 211 and the Appellate Body decision may serve as a model for other countries that wish to make it more difficult for U.S. intellectual property holders to protect and enforce their rights abroad. While the Appellate Body concluded that Section 211 violates national treatment and MFN, it let stand other U.S. arguments that suggest that WTO members are free to deny protection to trademark right