over that time period, creating the hugest deficits this Nation has ever known.

WE MUST INVEST IN EDUCATION, NOT STEAL FROM IT

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I rise this morning to comment on more than one thing. First, Mr. Speaker, make no mistake about it, I say to the American people, the deficit was increased last night with the vote that was taken.

Something extraordinary happened in the 14th Congressional District, just as something extraordinary happened last night in this Chamber, but it is far more positive. It happened a week ago this last Tuesday, June 2, where the voters of the 14th Congressional District, in community after community, voted and passed four school bond measures.

Mr. Speaker, this is extraordinary, not only for what I said, but in California there is a requirement that there be a two-thirds vote, a two-thirds vote in order to make that happen. So the people of my congressional district, Mr. Speaker, understand that we will end up with many deficits in this country if we do not, in fact, invest in education.

On Sunday, Tomorrow's Leaders Today, in Sunnyvale, CA, graduated 36 young people by investing in their education. Mr. Speaker, take notice from the people of the 14th Congressional District: Education, education, education. Invest in it, do not steal from it.

IT IS TIME TO FIX THE PROBLEMS WITH MEDICAID AND MEDICARE

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, it is interesting to hear our friends on the other side of the aisle talk about an increase in the deficit, where we all know the deficits have been increased, driven by entitlements, Medicaid and Medicare.

Mr. Speaker, sometimes we can stick our heads in the sand or put our hands over our eyes and not see the problems, but I think it also pairs up with a philosophy on this other side of the aisle that big government does better, big government knows more; that we should not let people at home in our States, our elected representatives, our Governors, happen to fashion those Medicare plans or Medicaid plans that fit best in their own States.

Also, Mr. Speaker, somebody putting their hands over their eyes and saying there is not really a problem with Medicare, it is only going to go broke a year or two earlier than we thought it was going to go broke; it is only $100 billion more in debt than we thought it was going to be last year. That is what the President's own board of trustees said. It is time that somebody fixes it. We should not have this class warfare or geriatric warfare that tries to come from the other side of the aisle.

CLASS WARFARE CREATED BY REPUBLICAN PRIORITIES AND LEGISLATION

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, class warfare began when the Republicans took control of this House, when they decided it was a higher priority to cut taxes for the wealthiest 1 percent in America and leave seniors and children behind. They want to take seniors and leave them in a position where Medicare will no longer cover their health bills. They will walk in and the Government may pay half, $10,000 for a hip replacement, and then the senior will be billed the remainder of $5,000 or $10,000. They want kids not to be able to get a college education unless they are part of that 1 percent.

Where was the assault on welfare on the other side when corporate welfare was on the table, when subsidies to billionaire corporations and multimillionaire farmers were on the floor? The other side refused to look at their welfare. When it comes to senior citizens and the health care they paid for and the health care they have a right to expect, that is what they want to cut. They have declared war on the classes in this society.

THE BEGINNING OF FILEGATE, AND REQUESTING THE HOUSE OF REPRESENTATIVES TO ACT TO OBTAIN ADDITIONAL FILES

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I serve on the Committee on Government Reform and Oversight. Members have heard speeches today about filegate. I just wanted to tell my colleagues how this started. This started as a result of our inquiry into travelgate, which was an examination of misuse of the FBI, and also of the IRS, by the White House.

As Members will recall, we asked for the release of documents that we found out about by accident, and we got 1,000 pages. That is how we found out about this. We stopped a contempt proceeding without receiving the other 2,000 pages. I think it is time that we bring that contempt citation back before the House of Representatives and get the rest of the information about this disaster.

Mr. Speaker, I read this matter and I thought I was reading about the KGB, the way this operation took place. I ask the House to immediately take action, and if necessary, enact a contempt citation and obtain this information.

THE HOUSE-PASSED BUDGET RESOLUTION IS INHUMAN TO CHILDREN

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, last night we passed a budget resolution in this House which is predicated on the passage of welfare reform. I sat in the Committee on Ways and Means as we took away the economic security for children and women in this country.

I want to use just the example of the State of Washington. If today every one of the 100,000 people on welfare said, ''I am going to quit being shiftless and not caring, and I am going to go down and get a job,'' they would meet the 173,000 people who are on unemployment in our State. If we count all those people, it is about 200,000 people in the State of Washington today that do not have a job.

Last year we created people 44,000 jobs. Those 44,000 jobs clearly are not going to take care of the 200,000 people who would be standing in line asking for a job. Their children would have no guarantee of food and no guarantee of health care. That budget resolution was inhuman to kids in this country.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Agriculture; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on Government Reform and Oversight; the Committee on International Relations; the Committee on National Security; the Committee on Resources; the Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and there are no objections to these requests.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

SHIPBUILDING TRADE AGREEMENT ACT

The SPEAKER pro tempore. Pursuant to House Resolution 448 and rule XXIII, the Chair declares the House in the Committee of the Whole House on

the State of the Union for the consideration of the bill, H.R. 2754.

□ 1041

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2754) to approve and implement the OECD Shipbuilding Trade Agreement, with Mr. GUTKNECHT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from Texas [Mr. ARCHER], the gentleman from Florida [Mr. GIBBONS], the gentleman from South Carolina [Mr. SPENCE], and the gentleman from California [Mr. DELLUMS] will each be recognized for 15 minutes.

The Chair understands the Committee on Ways and Means will use all its time first.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I must take a moment to commend our colleague, the gentleman from Florida. SAM GIBBONS, for his hard work, leadership, and expertise, not only on this bill but on all of the trade bills that we have worked on together for so many years. SAM, you have been a rock, a solid free trader, and over these years, you have been a real leader in forcing open markets, reducing trade barriers, and thereby creating greater opportunity for all working Americans in the next century. That is what this is all about: economic improvement and opportunity for all American workers.

I realize that this may be the last time that we will be here on the floor together working to achieve freer trade and opportunity for working Americans. I, for one, am going to miss your leadership, your vision, and your expertise, your experience, your unsurpassed knowledge in these trade issues.

Mr. Chairman, I strongly support H.R. 2754 to implement the OECD agreement on shipbuilding negotiated by the administration. It has taken us over 6 years from the beginning of the negotiations to get to this point. We are presented with a unique opportunity to allow U.S. shipyards to compete in a global market without losing out to companies from countries that are only too willing to provide billions of dollars in subsidies.

This is a good agreement that accommodates the priorities of a broad bipartisan cross-section of the House. It adds a new trade remedy to our arsenal for U.S. shipbuilders that are injured by unfair pricing of ships around the world. It preserves our national security interest, and it preserves the Jones Act.

□ 1045

We may continue our Title XI: Loan Guarantee Program, although under the international standards set forth in the agreement. Our trading partners have to give up far more than we do. In fact, our trading partners, many of them have already approved this agreement and others are in the process of approving it and looking to us and what we are going to do today.

There is strong bipartisan support for the agreement. The Committee on Ways and Means, which has primary jurisdiction, approved it by a vote of 27–4. The administration is strongly in support, as well, because it accurately reflects the negotiated agreement.

I am opposed to the one amendment that will be offered to this bill because it is clearly inconsistent with the agreement. In extending the time period in which we can offer title XI loan guarantees that exceed the terms of the agreement, the amendment would put us in direct violation of the international standards set forth in the agreement.

This amendment is being presented as a compromise because it would keep the current title XI program in effect for only 30 months, yet would not go so far as to maintain the current program indefinitely. But whatever the justification, it represents a clear and unmistakable violation of the agreement. In fact, our trading partners, in a matter of hours after the ink was dry on this amendment, wrote to tell us in no uncertain terms that they view the amendment as violating the agreement.

In implementing this agreement we are hamstrung by the fact that we do not have fast track procedures in place that limit amendments once the legislation has been formally introduced. Nevertheless, we must show our trading partners that we have the ability to implement agreements that are negotiated by representatives of this country.

If we fail to implement the agreement, or if we adopt the amendment which is inconsistent with the agreement, we lose twice. First, we will have lost the considerable opportunity to enable U.S. shipbuilders to reenter the worldwide commercial market and to compete on a level playing field. Second, such an outcome will reflect poorly upon the credibility of the United States.

Ours was the country that initiated the negotiations on behalf of its industry in the first place and was the driving force during the 5-year negotiating process. We must not lose our reputation as a country that is able to implement the agreements that it negotiates and signs. The negotiations must end at the negotiating table and any congressional concern should be taken up at that point. We cannot redo our agreements in the implementation process.

Accordingly, I believe that it is important to the future of our trade goals that we want to accomplish that we implement the agreement cleanly and quickly, without amendment. If Members vote for H.R. 2754 and against the amendment, they can be assured they are voting for faithful implementation of the agreement that the administration negotiated.

Mr. Chairman, I yield the balance of my time for distribution to the gentleman from Illinois [Mr. CRANE].

The CHAIRMAN. Without objection, the Chair will recognize the gentleman from Illinois to control the balance of the time.

There was no objection.

Mr. GIBBONS. Mr. Chairman, I yield myself 3 minutes.

First let me thank the gentleman from Texas [Mr. ARCHER] for his generous comments about my service.

Let me say that the debate here today goes far past this agreement. One of the reasons we have such a difficult time in international agreements is because the rest of the world says to America, ''As soon as we agree with you on something, you will unravel it in the ratification process.'' Let me make it clear that on this agreement, every other nation that is involved has already ratified this agreement and we face a deadline of tomorrow on ratifying this agreement.

I want to talk about the Bateman amendment, with no animosity to the gentleman from Virginia [Mr. BATEMAN] or any of the supporters of his amendment. But the Bateman amendment, if adopted, will kill this agreement. The evidence is in yesterday's RECORD if my colleagues want to read it, all of the signatories of this agreement that said they will back out if we ratify the Bateman amendment, and tomorrow is the deadline.

So this is a crucial historic point for this Congress. Can we enter into an international agreement without unraveling it here on the floor?

The Bateman amendment itself, it adopted, will be ineffective. The Bateman amendment itself hangs on the slim gossamer thread of a standstill arrangement that is in the basic agreement and tomorrow is the deadline on the basic agreement. So if we signify today that we are not going ahead with this agreement as negotiated, the Bateman amendment stands no chance of having any influence upon shipbuilding in America.

The standstill agreement is something that is common to every international agreement. That is, when we sign those agreements, all nations agree to not escalate the practice that we are outlawing.

At best the Bateman amendment will be ineffective. At worst it will kill the agreement. We must vote down the Bateman amendment.

The people that the gentleman from Virginia [Mr. BATEMAN] represents have had some 7 years to adjust to the changes that are coming about. The position he attempts to ratify and move forward is only short-term. On its face it looks reasonable, but there is more at stake than just the reasonableness of the Bateman amendment here. It is

the credibility of America in negotiating an international agreement. We cannot negotiate then with anyone. People will refuse to negotiate any agreements with us if we are going to unravel them here on the floor. That is the issue that is before us today.

Please vote ''no'' on the Bateman amendment and support this agreement when it comes up for final ratification.

Mr. Chairman, I rise in strong support of H.R. 2754, the OECD Shipbuilding Trade Agreement Act. This legislation would implement under U.S. law an international agreement reached after 5 long years of negotiations carried out by both the Bush and Clinton administrations. The agreement would eliminate the destructive pattern of heavy Government subsidies and chronic predatory pricing that has long characterized the global commercial shipbuilding industry.

H.R. 2754 was favorably reported by the Ways and Means Committee on March 21 by a bipartisan vote of 27 to 4. It was also favorably reported as an amendment in the nature of a substitute by the National Security Committee by voice vote on May 29. Unfortunately, several key provisions of the National Security Committee's version of the legislation are inconsistent with the agreement. These provisions will be offered as a National Security Committee amendment by Mr. BATEMAN. Make no mistake about it, the Bateman amendment, if enacted into law, will kill the agreement.

The administration strongly supports this legislation as does the Shipbuilders Council of America. The Shipbuilders Council includes 17 companies operating 44 shipyards in 13 States across the country. In addition to SCA members, a large coalition of leading shippers, ports, and U.S.-flag operating companies support the agreement, including the American Waterways Shipyard Conference, the American Association of Port Authorities, the American Institute of Merchant Shipping, and the Labor Management Maritime Committee.

THE OECD SHIPBUILDING AGREEMENT ON H.R. 2754—THE KEY ELEMENTS

To give Members an idea of what is contained in the OECD Shipbuilding Agreement and H.R. 2754, I would like to briefly outline the key elements of the agreement and H.R. 2754, which implements that agreement.

Generally speaking, the OECD agreement contains four major elements—

First, the elimination of virtually all subsidies granted either directly to shipbuilders or indirectly through ship operators;

Second, an injurious pricing code designed to prevent dumping in the commercial shipbuilding industry;

Third, a comprehensive discipline on Government financing for exports and domestic ship sales designed to avoid trade-distortive financing; and

Fourth, an effective and binding dispute settlement mechanism.

H.R. 2754 would implement the OECD Shipbuilding Agreement under U.S. law. By enacting H.R. 2754 into law, Congress would approve the agreement and make the necessary statutory changes to conform U.S. law to the agreement.

Title I would establish a new title VIII to the Tariff Act of 1930, as amended, in order to create an injurious-pricing mechanism applicable to commercial shipbuilding, analogous to current U.S. antidumping law.

Title II would eliminate the current 50-percent repair duty for repairs made to U.S.-flag vessels repaired in a country party to the agreement. Title II would also amend certain provisions of the Merchant Marine Act of 1936 to bring U.S. law into conformity with the agreement. In this regard, title II would amend the operational differential subsidies, capital construction fund, capital reserve fund, and cargo preference programs so that such programs would be available both to U.S.-built vessels as well as to vessels built in countries party to the agreement. Title II would also amend the title XI loan guarantee program to bring its terms into conformity with the agreement.

Title III contains a revenue offset provision in the amount of $36 million over 5 years by amending the penalty provisions for failure to file a disclosure of exemption for shipping income of foreign persons.

THE BATEMAN AMENDMENT

The Bateman amendment contains those provisions of the National Security-reported bill not included as original text in the version of H.R. 2754 being considered by the House today. I strongly oppose the Bateman amendment because it will effectively kill the OECD agreement. I would like to focus on the two key provisions of the Bateman amendment that are inconsistent with the agreement.

The first inconsistent provision would extend the current title XI loan guarantee program for an additional 30 months. The current title XI program, passed in 1994, provides Government guarantees to finance the purchase of a ship for up to 87.5 percent of the ship's value over 25 years. The agreement, however, only allows financing for up to 80 percent of the ship's value over 12 years. By passing H.R. 2754 without the Bateman amendment, the United States will continue to operate title XI financing on these terms.

Unfortunately, if this provision of the Bateman amendment is enacted into law, it will scuttle the agreement. I have received letters from the chairman of the OECD negotiating group and high level officials from the EU, Japan, and Norway stating that continuation of the current title XI program is inconsistent with the agreement and therefore unacceptable. The administration also objects to this provision. We have had a temporary advantage with the current title XI program because every signatory to the agreement has been operating since the agreement was signed in December 1994 under a standstill, pending ratification of the agreement. If the agreement is not faithfully implemented, our trading partners will match, or better, our current title XI program and go back to providing other subsidies as well.

The second inconsistent provision in the Bateman amendment would be contrary to the section of the agreement the United States negotiated to preserve the home build requirements of the Jones Act. Under the agreement, every country, except the United States, agreed to eliminate their home build requirements for ships operating in the coastwise trades. The United States took a full and permanent exception for the Jones Act, which means that the Jones Act will never be touched by the agreement. In exchange for protecting fully the Jones Act, however, the United States had to agree to a mechanism that would adjust downward, in certain circumstances, benefits that U.S. shipyards benefiting from the Jones Act would be entitled to under the agreement. Conceptually, the notion is that U.S. shipyards that receive increasing benefits because of exempted Jones Act contracts would be entitled to correspondingly fewer benefits under the provisions of the agreement in order to maintain an overall balance of advantages under the agreement. Given that potential Jones Act contracts are probably less than 1 percent of total worldwide ship tonnage built every year, U.S. shipyards benefiting from the Jones Act would potentially have to give up 1 percent of the international market. This trade-off seemed reasonable in order to fully exempt the Jones Act from the agreement. Unfortunately, the Bateman amendment would unilaterally negate this section of the agreement.

CONCLUSION

Mr. Chairman, the OECD Shipbuilding Agreement took 5 long, hard years of negotiations. It is our best hope for creating a level playing field internationally for our commercial shipbuilders. Without this agreement, we will be back where we started some 15 years ago—with massive subsidies and unfair pricing practices by our trading partners. I strongly urge this House to oppose the Bateman amendment and to vote in favor of H.R. 2754. Nothing less will save this agreement.

Mr. Chairman, I reserve the balance of my time.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2754, the Shipbuilding Trade Agreement Act. This legislation would implement the OECD Agreement on Shipbuilding. H.R. 2754, and the agreement it implements, are the culmination of many years of effort to level the playing field worldwide for the shipbuilding industry. I sponsored H.R. 2754, along with my colleagues, Mr. GIBBONS and Ms. DUNN, and Ways and Means favorably reported this legislation by an overwhelming bipartisan vote of 27 to 4. I strongly believe that this agreement will open up trade in shipbuilding for our industry by eliminating virtually all government subsidies and creating equitable terms of competition in the international shipbuilding market for U.S. shipbuilders. The agreement represents the best chance that our industry has to compete on a worldwide basis without having to contend with the huge subsidies offered by other governments to their shipbuilding industries.

In addition, the agreement and implementing bill would provide a new remedy to U.S. shipyards that have been injured by unfair pricing. Unless this legislation is passed, our shipyards will not have access to this valuable remedy, which would force offending shipyards to pay a charge in the amount of injurious pricing or face significant trade restrictions.

Of course, any international agreement must be fair and balanced, and I personally took care to assure that the agreement is truly symmetrical and that no special deals were cut to the detriment of the U.S. shipping industry. Any subsidies that are grandfathered under the agreement are limited and mainly in the form of worker

assistance related to reducing capacity within these countries. Of course, capacity reduction benefits shipbuilding industries worldwide.

You will hear debate today that we should not cut back our title XI loan guarantee program to conform to the agreement because it would take away the one subsidy that our shipyards have. Do not be misled by this argument. If we do not implement this agreement out of fear of having to scale back on our title XI and other programs, we will permit our trading partners to increase the level of subsidies that they provide to their industries to a level far beyond any U.S. subsidies—and the U.S. industry will not be able to compete under those circumstances. The simple fact is that it is highly unlikely that Congress will vote to increase subsidies for the U.S. shipbuilding industry to make it more competitive with highly subsidized foreign shipyards. As a result, the only way our industry can be competitive is to force its competitors to give up their subsidies and their ability to engage in unfair pricing practices. That is precisely what this agreement does.

You will also hear debate today that we should simply reject the agreement we have and return to the negotiating table in an attempt to cut an even better deal for our industry. This argument is misguided as well. The agreement took 5 years to conclude and was the product of hard bargaining and concessions on all sides. Our trading partners are giving up billions of dollars in subsidies. The biggest change that we have to make is to change the terms of our loan guarantee program. Our trading partners have told us that if we do not implement this agreement in a timely manner, support for the agreement in their countries will erode and vanish. In fact, I have letters from the European Community, Japan, Norway, and the OECD itself stating that renegotiating the agreement is simply impossible. If we fail, we will return to the days when the foreign industries are heavily subsidized but the U.S. industry is not.

You will also hear that this bill forces us to eliminate our title XI program in order to comply with the agreement. That is not the case. We are able to retain title XI, although we have to scale it back to meet the agreement requirements, just as every other signatory must do. We can even maintain the same funding levels as we currently have.

Opponents to the agreement are raising the specter that our national defense is somehow at risk unless we adopt the amendment. That is simply untrue. The agreement itself contains an exception that allows a government to back away if it believes its national security interests are at stake. The Department of Defense has also sent us a letter stating, and I quote, that ''the agreement will not adversely affect our national security.'' Mr. Chairman, if our own Defense Department can make such a bold statement, it is powerful evidence that the agreement does not threaten our national security.

Mr. Chairman, the shipbuilding agreement represents a good deal. In an effort to save our shipbuilding industry and in the spirit of bipartisanship, I urge my colleagues to vote for H.R. 2754.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MCDERMOTT].

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Chairman, I rise in support of H.R. 2754, the Shipbuilding Trade Agreement Act, and in opposition to the Bateman amendment.

I think the chairman and the ranking member have made the arguments, but I think it is important to say that this implements under U.S. law an international agreement that sets out the most effective subsidy discipline ever included as part of a multilateral trade agreement. It also creates under U.S. law an unfair pricing remedy similar to our antidumping laws for ships engaged in international trade.

Mr. Chairman, this bill is unique. It has bipartisan support both from the Bush and the Clinton administrations and from the Democrats and the Republicans in the House of Representatives. Supporters of this legislation include a diverse coalition of maritime interests in this country, including the Shipbuilders Council whose membership includes 17 companies operating 44 shipyards in 13 States. This agreement will create the necessary conditions for our commercial shipyards to begin to compete once again in the world shipbuilding industry. Foreign subsidies have completely forced U.S. shipbuilders out of the international market to the point that today U.S. yards have less than 1 percent of the world market. The Bateman amendment is inconsistent with the agreement and will kill it and should be rejected. If we do not pass H.R. 2754, we will be back to where we were in the 1980's. Our trading partners will continue their subsidizing ways and we will continue to engage in predatory pricing practices with impunity.

Mr. Chairman, I urge my colleagues to reject the Bateman amendment and pass H.R. 2754.

Mr. CRANE. Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Mr. Chairman, I rise in support of H.R. 2754, in opposition to the Bateman amendment, and also to thank SAM GIBBONS who for so many years has been active in these very sensitive negotiations which involve not just shipbuilding today but shipbuilding tomorrow.

□ 1100

We are all pleased that America now is going into an era of peace, that we are moving swiftly from defense into commercial shipping, and that we now are going to have to make certain that we can have a plane, an equal, a flat playing field as we move forward in economic competition with other shipbuilders, and that is exactly what this agreement has done.

It prevents other countries from manufacturing, making ships, and dumping them on our markets for less than the price that they actually paid for it. It really sets the rules for all of the countries that have sat down and realized that there are pluses and minuses in every agreement. The subsidies that we have now, sure, we can continue those, which are higher than other countries, but that does not mean that other countries cannot change if there is no agreement and put in for deeper subsidies.

So what we are talking about is a war between which country is prepared to subsidize this industry more than the other. We know that we have the expertise, we have the ability to excel, and all we ask is that other governments play by the same rules.

It took 5 years for the Bush administration, the Clinton administration, and for other countries to try to figure out what is in their best interests, and that is what international treaties are all about. It means that those who have an advantage now will not have that advantage next year.

So I think that after all of these years, we cannot have America say, yes, we agree; yes, we spent time at the table; but here again we find some people that believe that they got a little edge now but are not looking at the long picture as to where America will be if we do not restrict other countries from depending on subsidies and allow us to depend on our expertise, our experience, our high-technology, and know that those people, whether they are in military vessels or not can succeed in a fair market.

Mr. CARDIN. Mr. Chairman, I rise in strong support of H.R. 2754 and against the Bateman amendment, which would basically defeat the bill.

First, I really want to compliment the gentleman from Florida, Congressman GIBBONS, for the work that he has done for so many years to bring us to this point by bringing forward legislation in this Chamber that have brought our European friends to the table so that we could enter into this agreement. We are here today because of his good work and we all appreciate that very much.

Mr. Chairman, the Port of Baltimore was once a great center for commercial shipbuilding. During the Second World War we were producing the Liberty ships after just a few days of work. We had many commercial shipyards located in the harbor area of Baltimore.

Well, today, we have one major commercial shipbuilding yard that remains, and that yard basically competes for repair work.

The reason why Baltimore lost its shipbuilding was not because it was inefficient; it lost its shipbuilding because of international subsidies. Other countries were willing to put up tremendous subsidies for their shipbuilding and we in this Nation thought that was wrong and we protested and protested, but the jobs were lost in this country.

If we can return to an even playing field, remove the international subsidies, we can compete. We are finding commercial shipbuilding coming back in this Nation, but it will only come back if we remove the international subsidies. We cannot outcompete the Europeans and Korea and Japan in the amount of subsidies that they will put forward to their shipbuilding. We want a level playing field. This bill gives us that level playing field.

If the Bateman amendment is adopted, we have lost this opportunity to eliminate the international subsidies in this area. Let our communities rebuild commercial shipbuilding. Support this legislation and vote against the Bateman amendment.

Mr. CRANE. Mr. Chairman, I yield 2 minutes for purposes of control to the gentleman from Florida [Mr. GIBBONS].

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. GIBBONS] will control 2 additional minutes.

There was no objection.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me that time, and I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, I thank the distinguished chairman of the subcommittee and to the ranking member of the Committee on Ways and Means for yielding me this time.

Mr. Chairman, I just want to say a couple of words on this bill in favor of it and against the proposed amendment. This is not a perfect solution, but I think it is clear it is the best we are going to be able to do under these circumstances, and the alternatives, really, are quite a bit worse, unraveling this entire structure.

I mainly want to focus on a provision that has received very little attention and it relates to what is called injurious pricing mechanisms. We have fought long and hard in international agreements to make sure that there are some strong antidumping provisions.

These provisions are most beneficial to companies in the United States and their workers because it is the United States which has been the place where other countries have tried to dump. We have had open markets, and other countries have tried to take advantage of that.

This bill incorporates, in essence, the work that we have been doing all these years to try to have a strong antidumping regimen. And as I said, in this case, it is framed somewhat differently because we are talking about ships, but the thrust of it is the same under the terminology ''injurious pricing mechanism.''

So this is a step forward. It is the best we can do, and it is surrounded by provisions that will try to prevent other countries injuring our shipbuilding by essentially dumping or undercutting through unfair price mechanisms.

Mr. Chairman, I urge support of the bill and opposition to the amendment.

Mr. GIBBONS. Mr. Chairman, I yield myself 1 minute.

I regret that the debate is arranged such as it is today because I would like to have had the gentleman from Virginia [Mr. BATEMAN] and others participate in this debate so that we could respond to issues that are bound to be raised. So let me raise some of the issues.

First of all, they will say that this agreement does not play fairly with the United States. The United States had no subsidies or practically had no subsidies when we entered into this agreement. In 1981, here on this floor in the Gramm-Latta amendment, we abolished practically all the subsidies that could be found. One little subsidy slipped through, that is the title XI subsidy. It just was not seen and was not operative at that time, and we did not take any advantage of it.

Because of the standstill arrangement in this agreement, we were able to exploit the title XI subsidy and some small contracts were garnered by some of the big navy yards in this country. But the big navy yards are not really the huge commercial builders in this country. They represent a very small part of the commercial capacity. The commercial capacity and the Navy capacity is really somewhat different because of specialization of labor and work.

So we face it today. The gentleman from Virginia [Mr. BATEMAN] is trying to defend his big Navy yard. I do not blame him; I would too if I had one of those things. But most of the commercial shipbuilders are in non-Navy yards and they are the ones that will profit, along with the yard that the gentleman from Virginia represents. It will also profit from all of this arrangement if we can get it into position.

The problem is we have delayed so long, because of the legislative process in Congress, getting this matter to the floor, all the other nations have already ratified the agreement. We have had to seek extension, and our extension runs out tomorrow, and this agreement is in the best interest of the greatest number of Americans. We are having to give up very little.

The gentleman from Virginia [Mr. BATEMAN] only wants to extend his slight preference fore another 30 months. Sounds reasonable on its face. The only trouble is the other nations of the world just do not trust us. Every time we bring agreements to the floor for ratification, we have to bring them under a fast track procedure or they will unravel here on the floor.

This agreement was not brought back under a fast track arrangement and, therefore, it is being unraveled on the floor by what looks like harmless little amendments, and that is what the issue is here today.

All of the industrialized nations that build ships have already served notice on us in writing that if we adopt the Bateman amendment today this agreement is dead. Let me repeat that. All of the other signatories to this pact have agreed to this proposal, and they have served notice on us in writing that if we agree to the Bateman amendment this whole agreement is dead.

We do not have any choice. And it would not be a good choice anyway, because if the Bateman amendment ever becomes law the standstill arrangement that is in this pact will have expired and other nations can meet or match or better the Bateman subsidies. It will not work.

Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts [Mr. STUDDS] for a colloquy.

Mr. STUDDS. Mr. Chairman, I want to engage the manager of the bill, the distinguished gentleman from Illinois [Mr. CRANE], for one moment.

When the agreement was negotiated, it was agreed that U.S. shipbuilders would have a full 3 years to deliver vessels financed with favorable lending terms under title XI. This is critical to many of our shipyards, including one in my district. Since we are late in passing implementing legislation, some have suggested our yards will have only 2 or 2.5 years to deliver the vessels.

I know the U.S. Trade Representative has taken steps to make sure that our yards have a full 3 years from the effective date of the agreement to deliver the so-called subsidized vessels. I wanted to confirm that this is the understanding of the gentleman from Illinois and that he can give us his assurance that he will do everything he can to ensure U.S. yards have the 3-year delivery window.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, my understanding is if before July 15 this were to occur, that it would be in order, but that ultimately is an administration decision, and I have no input whatsoever that they would have any objections to that.

Mr. STUDDS. I appreciate that.

My second point is MarAd has a number of title XI applications in the pipeline, ones submitted many months ago and are substantially completed. Is it the gentleman's understanding that MarAd will be allowed to offer the favorable terms, depending on title XI applications which are substantially complete, and to work with me to ensure that applications, such as that

from the Quincy shipyard, are eligible for the favorable terms before the agreement enters into effect?

Mr. CRANE. That is my understanding. As I say, it would be an administration interpretation, but I do not think there would be a problem.

Mr. STUDDS. Mr. Chairman, I thank the gentleman, and I thank the gentleman from Florida for the time.

Mr. CRANE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The time of the gentleman from Florida [Mr. GIBBONS] has expired; the gentleman from Illinois [Mr. CRANE] yields back the balance of his time.

The gentleman from South Carolina [Mr. SPENCE] will be recognized for 15 minutes and the gentleman from California [Mr. DELLUMS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Chairman, now it is time to hear the other side of the story. Today I rise to express my support not for the OECD shipbuilding trade agreement, or H.R. 2754, but for the amendment that will be offered by my colleague, the gentleman from Virginia [Mr. BATEMAN].

H.R. 2754, the Shipbuilding Trade Agreement Act, would implement the Organization for Economic Cooperation and Development, or OECD, agreement on shipbuilding. This agreement, which was signed in December 1994 by the United States and other major shipbuilding countries, eliminates most shipbuilding subsidies provided by signatory countries to their shipbuilding industry or ship operators.

□ 1115

The OECD agreement also includes provisions designed to eliminate anticompetitive pricing practices which would have allowed some countries to sell ships on the open market at unfairly low prices.

Many Members of the House, and certainly the Committee on National Security, consider the base bill to be seriously flawed. Many believe that the agreement negotiated by the administration contains loopholes that will allow foreign shipyards to continue to receive subsidies, while we will have abolished our successful loan guarantee program for struggling U.S. shipbuilders.

Many believe that the OECD agreement does not give America's major shipyards, most of which have primarily been in the business of building U.S. Navy ships, sufficient time to transition form military to commercial work.

Still others are concerned that the agreement will adversely affect the Jones Act and could prevent shipyards from building vessels for domestic shipping without penalty.

Finally, many are concerned that the existing OECD agreement does not allow the United States adequate flexibility to protect its national security interests and to exempt from the agreement ships that serve military purposes. In short, many Members believe that the agreement negotiated by the administration is seriously flawed.

The Bateman amendment, which was agreed to in the Committee on National Security and enjoys strong bipartisan support, attempts to correct many of the flaws I have described. In the debate ahead, the gentleman from Virginia [Mr. BATEMAN] and others will address the constructive fixes his amendment proposes for the title XI program, the Jones Act, and important definitional issues. It is an important amendment that deserves Members' attention and support.

Suffice it to say, Mr. Chairman, H.R. 2754 is a flawed bill that would implement an imperfect agreement. Regardless of how Members feel about voting on final passage of this bill, I strongly encourage my colleagues to vote in favor of the Bateman amendment, which goes a long way toward protecting our national security interests.

Mr. Chairman, I ask unanimous consent that I be permitted to yield the remainder of my general debate time to the gentleman from Virginia [Mr. BATEMAN] and that he be permitted to manage and control such debate time.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DELLUMS. Mr. Chairman, I yield myself 7 minutes.

(Mr. DELLUMS asked and was given permission to revise and extend his remarks.)

Mr. DELLUMS. Mr. Chairman, I too join the gentleman from Florida in his concern with respect to the nature of this process. We were told that the Committee on Ways and Means wanted to exercise their option to debate on this matter for the first 30 minutes, otherwise this gentleman would have been more than willing to engage in significant debate because I think this is an important issue.

Obviously, the bill before us is designed to put the Congress in the position to ratify an agreement, the purpose of which is to end subsidies, Government subsidies, in the shipbuilding industry across the world.

There have been great allusions to the amendment that will be offered by the gentleman from Virginia [Mr. BATEMAN]. They have suggested that in offering the amendment, the ratification of this amendment would kill the agreement. Let us step back for a moment.

First of all, we believe that what we are being asked to agree to is a flawed agreement. Congress does, indeed, have a role in this process to ratify. Are we simply rubber stamps, or do we have the option to exercise our intellectual and political responsibilities in this matter? If we do, then it seems to me that it is perfectly within our right and prerogatives to offer an amendment. Now, that is the nature of the process, otherwise why have the agreement here?

We think that it is indeed flawed. The stakeholders in this issue, the workers, the union people, the shipbuilders looked at this agreement and said long term they agree with the purpose. But the problem with this agreement is in the transition. We believe that the U.S. shipbuilders have been grossly disadvantaged.

Now, we believe that in offering this amendment and accepting this amendment, it would be not unlike many other exceptions and exemptions from other countries, and I will point them out in a moment. If we pass it, they will simply go back with the exception, exemption, and renegotiate, because it is in the world's collective interest to stop subsidies. Other countries, other governments do not wish to continue. That is the imperative. That is the self-interest that will drive everyone back.

Now, are we doing something different, Mr. Chairman, than any other country? Example: Foreign governments were granted the following subsidy packages and the authority to continue paying out existing subsidies for ships delivered up until January 1, 1999: Spain, $1.4 billion in restructuring aid; Portugal, $110 million in restructuring aid; Belgium, $74 million in restructuring aid; South Korea, restructuring aid amount unknown, but based on information we have received it includes the $750 million plus government bailout of Daeoo Shipyard begun in 1990.

With respect to France, unknown at this time in terms of the overall amount, but special offers are currently being made by other Members of the European Community to gain France's support for the agreement; minimally, $480 million. Germany: Germany has a package for exemption. Germany's package to modernize, restructure and cover the loss of the shipyards in former East Germany, we believe that that figure adds up to approximately $4 billion.

So, what the United States is asking in comparison to these other countries, they went back in, Mr. Chairman, and renegotiated these exceptions and these exemptions. Title XI did not just happen; it just did not sneak in through the back-door. The distinguished gentleman from Mississippi [Mr. TAYLOR] and this gentleman, during the time when this party was in control of the Congress, put $50 million in loan guarantees in title XI because we saw that we cannot specialize in these shipyards because not enough work is being done.

So we took DOD money, put it into loan guarantees, leveraged it. Do my colleagues know what happened? Shipbuilding began on a commercial level in this country unprecedented in the last one or two decades.

Now, Mr. Chairman, we are simply saying that we would like to be on a level playing field. Ultimately, let us end all subsidies, but in the transition give us the opportunity to make the transition correctly. Leave title XI in for 3 years. That simply puts us on a level playing field, not only at the end of the day but in the transition period.

Now, we need to understand Mr. Chairman, 90 percent of the American workers in this country work in the top six shipyards in America. So if my colleagues care about working-class people, if they care about the working people in this country, they work in the top six yards in America.

There is no such thing anymore as specialized shipbuilding. We do not do as much. At one point we were moving toward a 600-ship Navy. The cold war is over, the military budget is coming down, and we are battling over how fast and how deep that it does come down. Shipbuilding is coming down in terms of military activity, so where do we have to balance that out? With commercial development.

We simply say at the end of the day, my conclusion is this. We are simply asking for what other signatories went in and renegotiated. This is not going to kill this agreement. It is in everybody's interest to get to the table.

We are simply saying let us not be fools. Let us go in intelligently, with our self-interest involved, and let us make this decision here. That is what our responsibility is. We have a fiduciary responsibility to the American people. Let us carry it out. If the other countries do not particularly like this, then let us ask them, ''Why did you ratify these other exceptions?'' They will not do it. They will come back to the table because it is in their self-interest.

Mr. Chairman, I hope my colleagues will support the Bateman amendment. Without it, it seems that this agreement is not supportable.

Mr. Chairman, I reserve the balance of my time.

Mr. BATEMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I would like to first associate myself with the splendid remarks of the gentleman from California [Mr. DELLUMS], who I think has very well articulated what is before the House today. Let me say, in order to try and reinforce and to place this debate in context, that I heard today that the amendments which I will offer are reasonable and they are modest, and yet I am told that we will unravel the agreement if this House, in pursuit of what it conceives to be sound public policy for the United States of America, were to adopt those amendments.

This presumably is a meaningful process. If this agreement is flawed, and I put it to my colleagues that it is very seriously flawed, then we should not approve it and implement it.

Mr. Chairman, I am not asking this House to reject this amendment. I am asking this House to adopt amendments which would remove the flaws and the warps from this agreement so that it at least is arguably in the best interest of the people of the United States and our national security.

To do less, Mr. Chairman, would in my view be an abdication of our responsibility. Much has been said about how long this agreement was in process of negotiation. I think there is something that needs to be said about that.

During the course of the Bush administration, no agreement could be struck, and the reason it could not be struck is because there was an insistence on the part of this country that we protect and preserve the Jones Act for our domestic internal trade.

This agreement does not protect the Jones Act, as least according to all of the people who have said my amendment undermines the agreement, because we make it explicit by my amendment that the Jones Act shall not be affected because that is what the U.S. Trade Representative told us.

But now even they are saying the Bateman amendment, by making it explicit that the Jones Act will be protected, is going to unravel the agreement. This is not a treaty or an agreement that I think has been dealt with very uprightly in terms of what it does and does not include. Clearly, we should insist through my amendment that we preserve the Jones Act inviolate.

To say that we should have no interim transition provisions protecting our shipbuilding is, I think, again a terrible mistake, especially when we look at it in the context that has been pointed out, that numerous other parties who are signatories to this agreement were taken care of by transition provisions for their shipyards while we have none.

Our trade representative came back after he signed this agreement in December and admitted to me that they had not even sought any transition provisions for this country's shipbuilders, even though the other parties to this agreement had been subsidized to the tune of as much as $8 billion a year when we were not subsidizing at all, and yet they sought no concession or transition provision for American shipbuilders.

Mr. Chairman, that is why this agreement is flawed. That is why it needs the amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. BATEMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the National Security Committee amendment to H.R. 2754. The amendment offered by the National Security Committee will mitigate the damage this shipbuilding trade agreement will have on our national security interests and our defense shipbuilding industrial base. No commercial trade agreement should place restrictions on our domestic Jones Act trade. The Jones Act fleet and the industrial base sustained through construction of ships for this trade is an essential arm of our military in a contingency.

During the Gulf war, shipyards worked around the clock to activate moth-balled ships to transport our tanks and helicopters to our forward deployed troops, and the mariners who operated our Jones Act fleet in peacetime were called upon to crew these military reserve vessels. The Department of Defense has stated that the Jones Act is essential to our national security interests. The House National Security Committee amendment will ensure that the Jones Act ship construction and operating requirement is not jeopardized by this agreement.

It will also clarify that noncombatant military auxiliary and sealift ships are not covered by this agreement. No commercial trade agreement should restrict the U.S. Department of Defense from procuring surge and prepositioning sealift ships needed to meet our Army and Marine Corps requirements. This was not the intent of these negotiations; however, this will be the case unless the National Security Committee amendment is passed.

I also support the 30-month extension of our title XI ship loan guarantee program which has enabled our navy shipbuilders to transition back into the business of building large ocean-going commercial ships. This commercial work has created 4,000 jobs in our shipyards, and helped to sustain our critical Navy shipbuilding base during a historical low in Navy shipbuilding orders. This limited extension of title XI is very modest compared to the 3- and 4-year transition subsidies granted to foreign signatories of this trade agreement—subsidies above and beyond their already massive subsidies.

I urge my colleagues to vote for the National Security Committee amendment.

□ 1130

The CHAIRMAN. The Chair advises that the gentleman from Virginia [Mr. BATEMAN] has 5½ minutes remaining, and the gentleman from California [Mr. DELLUMS] has 8 minutes remaining.

Mr. DELLUMS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I thank the distinguished Member for yielding the time.

No one comes here to increase the deficit. No one comes here to dismantle America's might. But just last night, the new majority voted for a budget for the next 2 years that increases the annual operating deficit and in turn the national debt. Today we are going to have a choice of whether or not we are going to dismantle America's industrial might. I have to my left, and I hope the television camera can show

this, one of the 66 jewels of America's industrial might. It is so huge that this 990-foot warship appears to be but a toy when compared to that overall industrial facility. It is called Ingalls Shipbuilding and is one of the six remaining shipyards in America that build ships to defend our country.

This agreement would preclude any chance Ingalls Shipbuilding ever has of in the long run staying in business. And that is what it comes down to. You see, as mentioned before, during the Reagan years there was talk of a 600-ship Navy and therefore people like Ingalls and Newport News would have plenty of work building those ships. We are now looking at a 150-ship Navy, which means there is not work for all six of them. If we do not find commercial work for those yards, they will simply go out of business. Why is that important?

This island nation during World War II had to build 16,000 ships to save itself from Japan and Nazi Germany. We are now down to what will be in the near future a 150-ship fleet so, if we lose our ability in the meantime between wars to do some commercial work, those yards will not be around. If you had to start this yard from scratch, you would have to find $800 million. That just is not going to happen.

So why is the agreement bad? The agreement is bad because we are counting on about 20 other nations to quit subsidizing their yards unilaterally. It is not going to happen. It has not happened. Even today in the Journal of Commerce, here is the story, that the Danes, even before the ink on this agreement is dry, are already cheating on this agreement. The reason the Danes say that they are cheating is because the Germans are cheating.

So we are being asked by the Committee on Ways and Means to unilaterally disarm, to give away the ability of our Nation to defend itself in future wars. So the Committee on Ways and Means can proudly proclaim that they have passed another failed trade agreement. May I remind them of their tremendous success of NAFTA? May I invite the Committee on Ways and Means to come to Lucedale, MS, or to Hattiesburg, MS, or Poplarville, MS, and go to the cattle auction and see the cattlemen who cry because they are selling their calves for one-half of the price that they were just 3 years ago before NAFTA. Or maybe once again to go to Lumberton, MS, or Poplarville, MS or Wiggins, MS or Neely, MS, or Gulfport, MS and visit the empty garment plants where thousands of people have been laid off as a direct result of NAFTA. In Neely, MS, when you lose your job, job retraining does not matter because there is no other factory in Neely, MS. The only business in town shut down.

So based on the success of NAFTA and our ability to pass an agreement that hurts only us and helps only our competitors, we want to do this again, except this time we want to do it with regard to national defense. We want to take the magnificent machine built up over the course of the past century, first by Democrats like FDR and later by Republicans like Ronald Reagan and George Bush, and we want to put it out of business so that when the next war comes we will not have a yard. And maybe if we are lucky, the Germans will sell us a ship. Maybe if we are lucky the Japanese will sell us a ship. But maybe if we are not lucky, they will be on the other side. Then what do we do?

The great powers of the world have always been great manufacturers, and they have been great maritime powers. Those two things go hand in hand during the course of recorded history. With NAFTA, we have given away a lot of our manufacturing might. With this agreement, they are trying to give away our maritime might, what is left of it, and our ability to get back in the business.

Title XI works. It is a loan guarantee program that works. We are building ships in this country, and now they are saying, let us take it away. The gentleman from Virginia [Mr. BATEMAN] is saying, let us slow that down a little bit.

I encourage Members to vote for the Bateman amendment. At the very least it will slow it down a little bit. And then I encourage Members to vote against this entire agreement because we do not need to give up our sovereignty to 20 other countries to tell us where and when we can invest in the industrial might of this Nation.

Mr. BATEMAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I want to thank the distinguished gentleman from Virginia for yielding to me. I want to note to my colleagues in the full committee and all the Members that this is one of those occasions, as you can see with respect to this substitute amendment, there is solidarity in the Committee on National Security, on the Democrat side, on the Republican side, on all shades of the political spectrum. This is the reason: No matter how much we disagree about weapons systems and about strategies and about budget numbers, we all agree on one thing, one fact that comes home to us every time we have a conflict. When we move out to project American power, we carry that power, whether it is marines or soldiers or ammunition or aircraft and all the logistics that you have to take to a foreign place to fight a war on ships.

In Desert Storm we carried 95 percent of our war materiel on ships, not on airplanes, and everybody knows that. The gentleman from California [Mr. DELLUMS] knows that. The gentleman from South Carolina [Mr. SPENCE] knows that. Every member of the committee knows that. Every Member of the House knows that. With respect to our ability to move to change this amendment, all of our allies know that. All of the signatories of this agreement know that.

South Korea is not going to complain because we want to maintain our shipbuilding base. South Korea exists because we had a shipbuilding base. We saved them as the North Koreans were driving down the Korean Peninsula and the Chinese shortly thereafter because we were able to move an American blocking force in there, hold the line and gradually push it back.

Our European allies are not going to complain because two times in this century we have saved Europe with American ships carrying American personnel and war materiel. Our allies who depended on the lifeline in the Gulf war understand that, while we had to rely on rent-a-ships in that case, 95 percent of the American equipment that was carried to that war was carried on ships.

Now, this bill, if it is not amended by the national security substitute, is going to do some bad things because theoretically it excludes military construction but it reserves for foreign judges the definition of what is a military program. It warns us against ''disguising commercial shipbuilding in military programs.'' That means somebody else is going to be interpreting what is an American military program.

Is a prepositioning ship an American military program or just another way to have commercial cargo or to have logistics that you might be taking on a rent-a-ship? Is that an American military program? In the WTO we are now seeing these decisions come home where they have enforced Brazil's right to send dirty gas into the United States because foreign judges have said American environmental laws are invalid. We have seen the problem with giving to foreign judges the right to arbitrate and to determine what is an American military program.

Let me urge all of my colleagues to support the national security position on this and vote against the full bill on final passage.

Mr. DELLUMS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] is recognized for 4 minutes.

Mr. DELLUMS. Mr. Chairman, the bill, H.R. 2754, provides the Congress of the United States with the opportunity to ratify an agreement, the purpose of which is to end government subsidies in shipbuilding. I believe that it is in the interest of the shipbuilding industry and in the interest of the American worker and ultimately the American people that we ratify a treaty, the purpose of which is to end Government subsidies. That is indeed in our interest.

I would like to take this opportunity to applaud the gentleman from Florida [Mr. GIBBONS], who has perhaps beyond any other Member of this body worked tirelessly to get such an agreement because he had the wisdom and the vision to understand that it is indeed in the

interest of the United States to end Government subsidy. For that, I applaud the gentleman. I am one of the gentleman's greatest fans.

My point of departure today with my distinguished colleague is very simple and very straightforward. I believe that the agreement is flawed in its transition implications. We are simply saying that we need to put the United States in a better position in this transition period, as we move from a heavy reliance on military dollars, building hundreds of military ships, to building commercial ships.

As I look at the experience around this agreement, I have come to the startling realization but the comforting realization that other countries saw problems in the transition and sought exemptions and exceptions prior to signing the agreement that would allow them to step forward and then sign the agreement.

I believe that the notion that if the Bateman amendment passed that it would kill the agreement is hyperbole. But I have been here going on 26 years, and I know how we can engage in hyperbole in this institution. The amendment will kill the bill. But that is hyperbole, and I love the Members that say it, but we often practice overstatement and hyperbole.

You have to be bright enough to cut through the weed and get to the real issue. It is not going to kill this agreement, because it is in the world's collective interest to end government subsidies. That imperative and that imperative alone will drive everybody back to the table.

If we pass this agreement, the world is not going to step back and say, well, you guys are going to do this, I am going to spend $2 billion a year subsidizing shipbuilding. That is bizarre, extreme and absurd. What they will do is sit down and try to work it out. That is all we are simply saying.

□ 1145

Finally, as I said in my opening remarks, if the Congress did not have any role, then why are we here to ratify it? And I think our role should go beyond simply rubber stamping when we believe substantively, economically, politically and intellectually that there is something wrong with the agreement. Working people in this country looked at it and said it is flawed in the transition. Shipbuilding people looked at it and said it is flawed in its transition. These are two major stakeholders who believe ultimately that we ought to end government subsidy.

So we stepped up to the plate and said, ''Let's correct it, let's clarify on the Jones Act, let's clarify some boilerplate language with respect to national security issues.

That is all this amendment does. I urge my colleagues to listen carefully to the debate around the Bateman amendment, not be guided by hyperbole and overstatement, and look at the facts, and I believe that they will come to the conclusion that we are correct. Adopt the Bateman amendment, and go forward to pass H.R. 2754, as amended.

Mr. BATEMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Chairman, the reason we are debating these amendments to this trade agreement today is that we are seeking at least some element of fairness to our shipbuilders. The reason we are debating these amendments is that we believe it is important to maintain these critical manufacturing jobs that shipbuilding and the supplier base provides. The reason we are debating these amendments is that many of us fear this trade agreement will be like so many before it—one that is unfair to the United States and that will send these jobs to other countries.

But let us not lose sight of the most important reason we are debating these amendments: and that is, that we are concerned about the national security of this country. You see, we have gotten to the point where the shipbuilding industrial base that embodies the critical skills and facilities needed to produce our Navy's ships has shrunken to just six shipyards and 70,000 employees. These same shipyards are the ones that have historically produced most of the large, oceangoing ships built in this country for both our domestic and international trades. Commercial shipbuilding has always been essential to helping level out the valleys when the government's purchase of ships has declined.

We are at this very moment considering Navy shipbuilding budgets that are the lowest in over 40 years! And while the Congress is attempting to increase that level slightly, the numbers of ships being ordered by the Navy are simply not sufficient to sustain the bare minimum shipbuilding base we now have. And if we are going to even come close to maintaining the 346-ship Navy that forms the basis of our current warfighting strategy, we are going to ask these same shipbuilders a few years from now to increase their rate of shipbuilding to two to three times what it is today.

Even with these amendments, we are perilously close to signing away our capability to ensure economic and national security through our shipbuilding industrial base.

I urge my colleagues to join me in voting for jobs and for national security. Vote for the National Security Committee amendments.

Mr. BATEMAN. Mr. Chairman, I yield myself the 30 seconds remaining only to remind the Members of the House that the six major shipyards who are diametrically opposed to this agreement in its present form represent 300,000 jobs at their shipyards and in the companies that service and work with them. This is over 90 percent of all the workers engaged in ship construction in the United States, and these shipyards build 98 percent of all ships for the United States Navy. We are speaking not just for those shipyards, but for all of the unions and the workers who are employed in those shipyards and for whom my amendments to this bill are extremely significant and are very intensely supported by those people.

Mr. BLILEY. Mr. Chairman, I rise in support of the efforts of the gentleman from Virginia [Mr. BATEMAN] regarding our Nation's shipbuilding industrial base by ensuring that industry's success in its endeavor to participate in commercial shipbuilding on the international level. I speak on this matter to support my colleague, and to note my interest as chairman of the Committee on Commerce in the issue of dumping.

In support of my colleague, I signed a letter delineating the problem created by the OECD Shipbulding Agreement that H.R. 2754 would implement. The agreement fails to remedy the historical advantage foreign shipbuilders have maintained over the U.S. shipbuilding industry through government subsidies. Although the agreement does eliminate certain aspects of foreign government subsidies, it still does not place U.S. shipbuilders on equal footing with foreign shipbuilders in the international market. Therefore, I support Mr. BATEMAN'S efforts to create an even playing field.

My interest in the matter as chairman of the Committee on Commerce stems from my committee's extensive work in the area of trade. H.R. 2754 would add a new title, ''Title VIII—Injurious Pricing and Countermeasures Relating to Shipbuilding'' to the Tariff Act of 1930, The new title VIII would provide a mechanism, tailored to the unique situation of the shipbuilding industry, to address concerns regarding the practice of dumping—selling goods, in this case ships, for less than their fair value.

Without recounting the lengthy history of my committee's work in the area of trade, I will point out just a few previous legislative initiatives—focusing on the 100th Congress—that addressed dumping. During the 100th Congress, at least four trade measures considered by the Commerce Committee were incorporated into the Omnibus Trade Reform Act of 1988. Although other measures included provisions on the issue of dumping, H.R. 268—notably—addressed only the issue of dumping. Through that measure, my committee and others sought to amend the Tariff Act of 1930 ''to provide private remedies for injury caused by unfair foreign competition and violations of certain customs fraud provisions.''

Just as H.R. 268 establishes remedies where an article ''is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article,'' H.R. 2754 provides for remedies where ''a foreign vessel has been sold directly or indirectly to one or more United States buyers at less than its fair value.'' Therefore, my interest in this measure is twofold. First, I want to support my colleague Mr. BATEMAN; and second, I want to express my committee's jurisdictional interest in the dumping provisions of this measure. Based on my committee's lengthy history of work in the area of trade, and on the issue of dumping. I would like to note our intent to continue in the exercise of our authority in these areas.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute, recommended by the Committee on Ways and Means, modified by the amendment printed in part 1 of House Report 104–606, is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 2754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Shipbuilding Trade Agreement Act''.

SEC. 2. APPROVAL OF THE SHIPBUILDING AGREEMENT.

The Congress approves The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry (hereafter in this Act referred to as the ''Shipbuilding Agreement''), a reciprocal trade agreement which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development, and was entered into on December 21, 1994.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on the date that the Shipbuilding Agreement enters into force with respect to the United States.

TITLE I—INJURIOUS PRICING AND COUNTERMEASURES

SEC. 101. INJURIOUS PRICING AND COUNTERMEASURES PROCEEDINGS.

The Tariff Act of 1930 is amended by adding at the end the following new title:

''TITLE VIII—INJURIOUS PRICING AND COUNTERMEASURES RELATING TO SHIPBUILDING

''Subtitle A—Injurious Pricing Charge and Countermeasures

''Sec. 801. Injurious pricing charge.
''Sec. 802. Procedures for initiating an injurious pricing investigation.
''Sec. 803. Preliminary determinations.
''Sec. 804. Termination or suspension of investigation.
''Sec. 805. Final determinations.
''Sec. 806. Imposition and collection of injurious pricing charge.
''Sec. 807. Imposition of countermeasures.
''Sec. 808. Injurious pricing petitions by third countries.

''Subtitle B—Special Rules

''Sec. 821. Export price.
''Sec. 822. Normal value.
''Sec. 823. Currency conversion.

''Subtitle C—Procedures

''Sec. 841. Hearings.
''Sec. 842. Determinations on the basis of the facts available.
''Sec. 843. Access to information.
''Sec. 844. Conduct of investigations.
''Sec. 845. Administrative action following shipbuilding agreement panel reports.

''Subtitle D—Definitions

''Sec. 861. Definitions.

''Subtitle A—Injurious Pricing Charge and Countermeasures

''SEC. 801. INJURIOUS PRICING CHARGE.

''(a) BASIS FOR CHARGE.—If—

''(1) the administering authority determines that a foreign vessel has been sold directly or indirectly to one or more United States buyers at less than its fair value, and

''(2) the Commission determines that—

''(A) an industry in the United States—

''(i) is or has been materially injured, or

''(ii) is threatened with material injury, or

''(B) the establishment of an industry in the United States is or has been materially retarded,

by reason of the sale of such vessel, then there shall be imposed upon the foreign producer of the subject vessel an injurious pricing charge, in an amount equal to the amount by which the normal value exceeds the export price for the vessel. For purposes of this subsection and section 805(b)(1), a reference to the sale of a foreign vessel includes the creation or transfer of an ownership interest in the vessel, except for an ownership interest created or acquired solely for the purpose of providing security for a normal commercial loan.

''(b) FOREIGN VESSELS NOT MERCHANDISE.—No foreign vessel may be considered to be, or to be part of, a class or kind of merchandise for purposes of subtitle B of title VII.

''SEC. 802. PROCEDURES FOR INITIATING AN INJURIOUS PRICING INVESTIGATION.

''(a) INITIATION BY ADMINISTERING AUTHORITY.—

''(1) GENERAL RULE.—Except in the case in which subsection (d)(6) applies, an injurious pricing investigation shall be initiated whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a charge under section 801(a) exist, and whether a producer described in section 861(17)(C) would meet the criteria of subsection (b)(1)(B) for a petitioner.

''(2) TIME FOR INITIATION BY ADMINISTERING AUTHORITY.—An investigation may only be initiated under paragraph (1) within 6 months after the time the administering authority first knew or should have known of the sale of the vessel. Any period in which subsection (d)(6)(A) applies shall not be included in calculating that 6-month period.

''(b) INITIATION BY PETITION.—

''(1) PETITION REQUIREMENTS.—(A) Except in a case in which subsection (d)(6) applies, an injurious pricing proceeding shall be initiated whenever an interested party, as defined in subparagraph (C), (D), (E), or (F) of section 861(17), files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of an injurious pricing charge under section 801(a) and the elements required under subparagraph (B), (C), (D), or (E) of this paragraph, and which is accompanied by information reasonably available to the petitioner supporting those allegations and identifying the transaction concerned.

''(B)(i) If the petitioner is a producer described in section 861(17)(C), and—

''(I) if the vessel was sold through a broad multiple bid, the petition shall include information indicating that the petitioner was invited to tender a bid on the contract at issue, the petitioner actually did so, and the bid of the petitioner substantially met the delivery date and technical requirements of the bid,

''(II) if the vessel was sold through any bidding process other than a broad multiple bid and the petitioner was invited to tender a bid on the contract at issue, the petition shall include information indicating that the petitioner actually did so and the bid of the petitioner substantially met the delivery date and technical requirements of the bid, or

''(III) except in a case in which the vessel was sold through a broad multiple bid, if there is no invitation to tender a bid, the petition shall include information indicating that the petitioner was capable of building the vessel concerned and, if the petitioner knew or should have known of the proposed purchase, it made demonstrable efforts to conclude a sale with the United States buyer consistent with the delivery date and technical requirements of the buyer.

''(ii) For purposes of clause (i)(III), there is a rebuttable presumption that the petitioner knew or should have known of the proposed purchase if it is demonstrated that—

''(I) the majority of the producers in the industry have made efforts with the United States buyer to conclude a sale of the subject vessel, or

''(II) general information on the sale was available from brokers, financiers, classification societies, charterers, trade associations, or other entities normally involved in shipbuilding transactions with whom the petitioner had regular contacts or dealings.

''(C) If the petitioner is an interested party described in section 861(17)(D), the petition shall include information indicating that members of the union or group of workers described in that section are employed by a producer that meets the requirements of subparagraph (B) of this paragraph.

''(D) If the petitioner is an interested party described in section 861(17)(E), the petition shall include information indicating that a member of the association described in that section is a producer that meets the requirements of subparagraph (B) of this paragraph.

''(E) If the petitioner is an interested party described in section 861(17)(F), the petition shall include information indicating that a member of the association described in that section meets the requirements of subparagraph (C) or (D) of this paragraph.

''(F) The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

''(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

''(3) DEADLINE FOR FILING PETITION.—

''(A) DEADLINE.—(i) A petitioner to which paragraph (1)(B) (i) or (ii) applies shall file the petition no later than the earlier of—

''(I) 6 months after the time that the petitioner first knew or should have known of the sale of the subject vessel, or

''(II) 6 months after delivery of the subject vessel.

''(ii) A petitioner to which paragraph (1)(B)(iii) applies shall—

''(I) file the petition no later than the earlier of 9 months after the time that the petitioner first knew or should have known of the sale of the subject vessel, or 6 months after delivery of the subject vessel, and

''(II) submit to the administering authority a notice of intent to file a petition no later than 6 months after the time that the petitioner first knew or should have known of the sale (unless the petition itself is filed within that 6-month period).

''(B) PRESUMPTION OF KNOWLEDGE.—For purposes of this paragraph, if the existence of the sale, together with general information concerning the vessel, is published in the international trade press, there is a rebuttable presumption that the petitioner knew or should have known of the sale of the vessel from the date of that publication.

''(c) ACTIONS BEFORE INITIATING INVESTIGATIONS.—

''(1) NOTIFICATION OF GOVERNMENTS.—Before initiating an investigation under either subsection (a) or (b), the administering authority shall notify the government of the exporting country of the investigation. In the case of the initiation of an investigation under subsection (b), such notification shall include a public version of the petition.

''(2) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 861(17)(C), (D), (E), or (F) before the administering authority makes its decision whether to initiate an investigation pursuant to a petition, except for inquiries regarding

the status of the administering authority's consideration of the petition or a request for consultation by the government of the exporting country.

''(3) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under subsection (b)(1).

''(d) PETITION DETERMINATION.—

''(1) TIME FOR INITIAL DETERMINATION.—(A) Within 45 days after the date on which a petition is filed under subsection (b), the administering authority shall, after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition—

''(i) alleges the elements necessary for the imposition of an injurious pricing charge under section 801(a) and the elements required under subsection (b)(1)(B), (C), (D), or (E), and contains information reasonably available to the petitioner supporting the allegations; and

''(ii) determine if the petition has been filed by or on behalf of the industry.

''(B) Any period in which paragraph (6)(A) applies shall not be included in calculating the 45-day period described in subparagraph (A).

''(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether the vessel was sold at less than fair value, unless paragraph (6) applies.

''(3) NEGATIVE DETERMINATIONS.—If—

''(A) the determination under clause (i) or (ii) of paragraph (1)(A) is negative, or

''(B) paragraph (6)(B) applies,

the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

''(4) DETERMINATION OF INDUSTRY SUPPORT.—

''(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the domestic industry, if—

''(i) the domestic producers or workers who support the petition collectively account for at least 25 percent of the total capacity of domestic producers capable of producing a like vessel, and

''(ii) the domestic producers or workers who support the petition collectively account for more than 50 percent of the total capacity to produce a like vessel of that portion of the domestic industry expressing support for or opposition to the petition.

''(B) CERTAIN POSITIONS DISREGARDED.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition, if such producers are related to the foreign producer or United States buyer of the subject vessel, or the domestic producer is itself the United States buyer, unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an injurious pricing charge.

''(C) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total capacity to produce a like vessel—

''(i) the administering authority shall poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

''(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

''(D) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 861(17) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

''(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means interested parties as defined in section 861(17)(C), (D), (E), or (F).

''(6) PROCEEDINGS BY WTO MEMBERS.—The administering authority shall not initiate an investigation under this section if, with respect to the vessel sale at issue, an antidumping proceeding conducted by a WTO member who is not a Shipbuilding Agreement Party—

''(A) has been initiated and has been pending for not more than one year, or

''(B) has been completed and resulted in the imposition of antidumping measures or a negative determination with respect to whether the sale was at less than fair value or with respect to injury.

''(e) NOTIFICATION TO COMMISSION OF DETERMINATION.—The administering authority shall—

''(1) notify the Commission immediately of any determination it makes under subsection (a) or (d), and

''(2) if the determination is affirmative, make available to the Commission such information as it may have relating to the matter under investigation, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

''SEC. 803. PRELIMINARY DETERMINATIONS.

''(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

''(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 802(d)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

''(A) an industry in the United States—

''(i) is or has been materially injured, or

''(ii) is threatened with material injury, or

''(B) the establishment of an industry in the United States is or has been materially retarded,

by reason of the sale of the subject vessel. If the Commission makes a negative determination under this paragraph, the investigation shall be terminated.

''(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1) within 90 days after the date on which the petition is filed or, in the case of an investigation initiated under section 802(a), within 90 days after the date on which the Commission receives notice from the administering authority that the investigation has been initiated.

''(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—

''(1) PERIOD OF INJURIOUS PRICING INVESTIGATION.—(A) The administering authority shall make a determination, based upon the information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the subject vessel was sold at less than fair value.

''(B) If cost data is required to determine normal value on the basis of a sale of a foreign like vessel that has not been delivered on or before the date on which the administering authority initiates the investigation, the administering authority shall make its determination within 160 days after the date of delivery of the foreign like vessel.

''(C) If normal value is to be determined on the basis of constructed value, the administering authority shall make its determination within 160 days after the date of delivery of the subject vessel.

''(D) In cases in which subparagraph (B) or (C) does not apply, the administering authority shall make its determination within 160 days after the date on which the administering authority initiates the investigation under section 802.

''(E) In no event shall the administering authority make its determination before an affirmative determination is made by the Commission under subsection (a).

''(2) DE MINIMIS INJURIOUS PRICING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any injurious pricing margin that is de minimis. For purposes of the preceding sentence, an injurious pricing margin is de minimis if the administering authority determines that the margin is less than 2 percent of the export price.

''(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES OR FOR GOOD CAUSE.—

''(1) IN GENERAL.—If—

''(A) the administering authority concludes that the parties concerned are cooperating and determines that—

''(i) the case is extraordinarily complicated by reason of—

''(I) the novelty of the issues presented, or

''(II) the nature and extent of the information required, and

''(ii) additional time is necessary to make the preliminary determination, or

''(B) a party to the investigation requests an extension and demonstrates good cause for the extension,

then the administering authority may postpone the time for making its preliminary determination.

''(2) LENGTH OF POSTPONEMENT.—The preliminary determination may be postponed under paragraph (1)(A) or (B) until not later than the 190th day after—

''(A) the date of delivery of the foreign like vessel, if subsection (b)(1)(B) applies,

''(B) the date of delivery of the subject vessel, if subsection (b)(1)(C) applies, or

''(C) the date on which the administering authority initiates an investigation under section 802, in a case in which subsection (b)(1)(D) applies.

''(3) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b)(1), if it intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

''(d) EFFECT OF DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority shall—

''(1) determine an estimated injurious pricing margin, and

''(2) make available to the Commission all information upon which its determination was based and which the Commission considers relevant to its injury determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

''(e) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The

administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based.

"SEC. 804. TERMINATION OR SUSPENSION OF INVESTIGATION.

''(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner.

''(2) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 803(b).

''(b) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 802(a) after providing notice of such termination to all parties to the investigation.

''(c) ALTERNATE EQUIVALENT REMEDY.—The criteria set forth in subparagraphs (A) through (D) of section 806(e)(1) shall apply to any agreement that forms the basis for termination of an investigation under subsection (a) or (b).

''(d) PROCEEDINGS BY WTO MEMBERS.—

''(1) SUSPENSION OF INVESTIGATION.—The administering authority and the Commission shall suspend an investigation under this section if a WTO member that is not a Shipbuilding Agreement Party initiates an antidumping proceeding described in section 861(29)(A) with respect to the sale of the subject vessel.

''(2) TERMINATION OF INVESTIGATION.—If an antidumping proceeding described in paragraph (1) is concluded by—

''(A) the imposition of antidumping measures, or

''(B) a negative determination with respect to whether the sale is at less than fair value or with respect to injury,

the administering authority and the Commission shall terminate the investigation under this section.

''(3) CONTINUATION OF INVESTIGATION.—(A) If such a proceeding—

''(i) is concluded by a result other than a result described in paragraph (2), or

''(ii) is not concluded within one year from the date of the initiation of the proceeding,

then the administering authority and the Commission shall terminate the suspension and continue the investigation. The period in which the investigation was suspended shall not be included in calculating deadlines applicable with respect to the investigation.

''(B) Notwithstanding subparagraph (A)(ii), if the proceeding is concluded by a result described in paragraph (2)(A), the administering authority and the Commission shall terminate the investigation under this section.

"SEC. 805. FINAL DETERMINATIONS.

''(a) DETERMINATIONS BY ADMINISTERING AUTHORITY.—

''(1) IN GENERAL.—Within 75 days after the date of its preliminary determination under section 803(b), the administering authority shall make a final determination of whether the vessel which is the subject of the investigation has been sold in the United States at less than its fair value.

''(2) EXTENSION OF PERIOD FOR DETERMINATION.—(A) The administering authority may postpone making the final determination under paragraph (1) until not later than 290 days after—

''(i) the date of delivery of the foreign like vessel, in an investigation to which section 803(b)(1)(B) applies,

''(ii) the date of delivery of the subject vessel, in an investigation to which section 803(b)(1)(C) applies, or

''(iii) the date on which the administering authority initiates the investigation under section 802, in an investigation to which section 803(b)(1)(D) applies.

''(B) The administering authority may apply subparagraph (A) if a request in writing is made by—

''(i) the producer of the subject vessel, in a proceeding in which the preliminary determination by the administering authority under section 803(b) was affirmative, or

''(ii) the petitioner, in a proceeding in which the preliminary determination by the administering authority under section 803(b) was negative.

''(3) DE MINIMIS INJURIOUS PRICING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any injurious pricing margin that is de minimis as defined in section 803(b)(2).

''(b) FINAL DETERMINATION BY COMMISSION.—

''(1) IN GENERAL.—The Commission shall make a final determination of whether—

''(A) an industry in the United States—

''(i) is or has been materially injured, or

''(ii) is threatened with material injury, or

''(B) the establishment of an industry in the United States is or has been materially retarded,

by reason of the sale of the vessel with respect to which the administering authority has made an affirmative determination under subsection (a)(1).

''(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 803(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

''(A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 803(b), or

''(B) the 45th day after the day on which the administering authority makes its affirmative final determination under subsection (a).

''(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 803(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

''(c) EFFECT OF FINAL DETERMINATIONS.—

''(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then the administering authority shall—

''(A) make available to the Commission all information upon which such determination was based and which the Commission considers relevant to its determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority, and

''(B) calculate an injurious pricing charge in an amount equal to the amount by which the normal value exceeds the export price of the subject vessel.

''(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an injurious pricing order under section 806. If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination.

''(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

''(e) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

"SEC. 806. IMPOSITION AND COLLECTION OF INJURIOUS PRICING CHARGE.

''(a) IN GENERAL.—Within 10 days after being notified by the Commission of an affirmative determination under section 805(b), the administering authority shall publish an order imposing an injurious pricing charge on the foreign producer of the subject vessel which—

''(1) directs the foreign producer of the subject vessel to pay to the Secretary of the Treasury, or the designee of the Secretary, within 180 days from the date of publication of the order, an injurious pricing charge in an amount equal to the amount by which the normal value exceeds the export price of the subject vessel,

''(2) includes the identity and location of the foreign producer and a description of the subject vessel, in such detail as the administering authority deems necessary, and

''(3) informs the foreign producer that—

''(A) failure to pay the injurious pricing charge in a timely fashion may result in the imposition of countermeasures with respect to that producer under section 807,

''(B) payment made after the deadline described in paragraph (1) shall be subject to interest charges at the Commercial Interest Reference Rate (CIRR), and

''(C) the foreign producer may request an extension of the due date for payment under subsection (b).

''(b) EXTENSION OF DUE DATE FOR PAYMENT IN EXTRAORDINARY CIRCUMSTANCES.—

''(1) EXTENSION.—Upon request, the administering authority may amend the order under subsection (a) to set a due date for payment or payments later than the date that is 180 days from the date of publication of the order, if the administering authority determines that full payment in 180 days would render the producer insolvent or would be incompatible with a judicially supervised reorganization. When an extended payment schedule provides for a series of partial payments, the administering authority shall specify the circumstances under which default on one or more payments will result in the imposition of countermeasures.

''(2) INTEREST CHARGES.—If a request is granted under paragraph (1), payments made after the date that is 180 days from the publication of the order shall be subject to interest charges at the CIRR.

''(c) NOTIFICATION OF ORDER.—The administering authority shall deliver a copy of the order requesting payment to the foreign producer of the subject vessel and to an appropriate representative of the government of the exporting country.

''(d) REVOCATION OF ORDER.—The administering authority—

''(1) may revoke an injurious pricing order if the administering authority determines that producers accounting for substantially all of the

capacity to produce a domestic like vessel have expressed a lack of interest in the order, and

''(2) shall revoke an injurious pricing order—

''(A) if the sale of the vessel that was the subject of the injurious pricing determination is voided,

''(B) if the injurious pricing charge is paid in full, including any interest accrued for late payment,

''(C) upon full implementation of an alternative equivalent remedy described in subsection (e), or

''(D) if, with respect to the vessel sale that was at issue in the investigation that resulted in the injurious pricing order, an antidumping proceeding conducted by a WTO member who is not a Shipbuilding Agreement Party has been completed and resulted in the imposition of antidumping measures.

''(e) ALTERNATIVE EQUIVALENT REMEDY.—

''(1) AGREEMENT FOR ALTERNATE REMEDY.—The administering authority may suspend an injurious pricing order if the administering authority enters into an agreement with the foreign producer subject to the order on an alternative equivalent remedy, that the administering authority determines—

''(A) is at least as effective a remedy as the injurious pricing charge,

''(B) is in the public interest,

''(C) can be effectively monitored and enforced, and

''(D) is otherwise consistent with the domestic law and international obligations of the United States.

''(2) PRIOR CONSULTATIONS AND SUBMISSION OF COMMENTS.—Before entering into an agreement under paragraph (1), the administering authority shall consult with the industry, and provide for the submission of comments by interested parties, with respect to the agreement.

''(3) MATERIAL VIOLATIONS OF AGREEMENT.—If the injurious pricing order has been suspended under paragraph (1), and the administering authority determines that the foreign producer concerned has materially violated the terms of the agreement under paragraph (1), the administering authority shall terminate the suspension.

"SEC. 807. IMPOSITION OF COUNTERMEASURES.

''(a) GENERAL RULE.—

''(1) ISSUANCE OF ORDER IMPOSING COUNTERMEASURES.—Unless an injurious pricing order is revoked or suspended under section 806 (d) or (e), the administering authority shall issue an order imposing countermeasures.

''(2) CONTENTS OF ORDER.—The countermeasure order shall—

''(A) state that, as provided in section 468, a permit to lade or unlade passengers or merchandise may not be issued with respect to vessels contracted to be built by the foreign producer of the vessel with respect to which an injurious pricing order was issued under section 806, and

''(B) specify the scope and duration of the prohibition on the issuance of a permit to lade or unlade passengers or merchandise.

''(b) NOTICE OF INTENT TO IMPOSE COUNTERMEASURES.—

''(1) GENERAL RULE.—The administering authority shall issue a notice of intent to impose countermeasures not later than 30 days before the expiration of the time for payment specified in the injurious pricing order (or extended payment provided for under section 806(b)), and shall publish the notice in the Federal Register within 7 days after issuing the notice.

''(2) ELEMENTS OF THE NOTICE OF INTENT.—The notice of intent shall contain at least the following elements:

''(A) SCOPE.—A permit to lade or unlade passengers or merchandise may not be issued with respect to any vessel—

''(i) built by the foreign producer subject to the proposed countermeasures, and

''(ii) with respect to which the material terms of sale are established within a period of 4 consecutive years beginning on the date that is 30 days after publication in the Fedeal Register of the notice of intent described in paragraph (1).

''(B) DURATION.—For each vessel described in subparagraph (A), a permit to lade or unlade passengers or merchandise may not be issued for a period of 4 years after the date of delivery of the vessel.

''(c) DETERMINATION TO IMPOSE COUNTERMEASURES; ORDER.—

''(1) GENERAL RULE.—The administering authority shall, within the time specified in paragraph (2), issue a determination and order imposing countermeasures.

''(2) TIME FOR DETERMINATION.—The determination shall be issued within 90 days after the date on which the notice of intent to impose countermeasures under subsection (b) is published in the Federal Register. The administering authority shall publish the determination, and the order described in paragraph (4), in the Federal Register within 7 days after issuing the final determination, and shall provide a copy of the determination and order to the Customs Service.

''(3) CONTENT OF THE DETERMINATION.—In the determination imposing countermeasures, the administering authority shall determine whether, in light of all of the circumstances, an interested party has demonstrated that the scope or duration of the countermeasures described in subsection (b)(2) should be narrower or shorter than the scope or duration set forth in the notice of intent to impose countermeasures.

''(4) ORDER.—At the same time it issues its determination, the administering authority shall issue an order imposing countermeasures, consistent with its determination.

''(d) ADMINISTRATIVE REVIEW OF DETERMINATION TO IMPOSE COUNTERMEASURES.—

''(1) REQUEST FOR REVIEW.—Each year, in the anniversary month of the issuance of the order imposing countermeasures under subsection (c), the administering authority shall publish in the Federal Register a notice providing that interested parties may request—

''(A) a review of the scope or duration of the countermeasures determined under subsection (c)(3), and

''(B) a hearing in connection with such a review.

''(2) REVIEW.—If a proper request has been received under paragraph (1), the administering authority shall—

''(A) publish notice of initiation of a review in the Federal Register not later than 15 days after the end of the anniversary month of the issuance of the order imposing countermeasures, and

''(B) review and determine whether the requesting party has demonstrated that the scope or duration of the countermeasures is excessive in light of all of the circumstances.

''(3) TIME FOR REVIEW.—The administering authority shall make its determination under paragraph (2)(B) within 90 days after the date on which the notice of initiation of the review is published. If the determination under paragraph (2)(B) is affirmative, the administering authority shall amend the order accordingly. The administering authority shall promptly publish the determination and any amendment to the order in the Federal Register, and shall provide a copy of any amended order to the Customs Service. In extraordinary circumstances, the administering authority may extend the time for its determination under paragraph (2)(B) to not later than 150 days after the date on which the notice of initiation of the review is published.

''(e) EXTENSION OF COUNTERMEASURES.—

''(1) REQUEST FOR EXTENSION.—Within the time described in paragraph (2), an interested party may file with the administering authority a request that the scope or duration of countermeasures be extended.

''(2) DEADLINE FOR REQUEST FOR EXTENSION.—

''(A) REQUEST FOR EXTENSION BEYOND 4 YEARS.—If the request seeks an extension that would cause the scope or duration of countermeasures to exceed 4 years, including any prior extensions, the request for extension under paragraph (1) shall be filed not earlier than the date that is 15 months, and not later than the date that is 12 months, before the date that marks the end of the period that specifies the vessels that fall within the scope of the order by virtue of the establishment of material terms of sale within that period.

''(B) OTHER REQUESTS.—If the request seeks an extension under paragraph (1) other than one described in subparagraph (A), the request shall be filed not earlier than the date that is 6 months, and not later than a date that is 3 months, before the date that marks the end of the period referred to in subparagraph (A).

''(3) DETERMINATION.—

''(A) NOTICE OF REQUEST FOR EXTENSION.—If a proper request has been received under paragraph (1), the administering authority shall publish notice of initiation of an extension proceeding in the Federal Register not later than 15 days after the applicable deadline in paragraph (2) for requesting the extension.

''(B) PROCEDURES.—

''(i) REQUESTS FOR EXTENSION BEYOND 4 YEARS.—If paragraph (2)(A) applies to the request, the administering authority shall consult with the Trade Representative under paragraph (4).

''(ii) OTHER REQUESTS.—If paragraph (2)(B) applies to the request, the administering authority shall determine, within 90 days after the date on which the notice of initiation of the proceeding is published, whether the requesting party has demonstrated that the scope or duration of the countermeasures is inadequate in light of all of the circumstances. If the administering authority determines that an extension is warranted, it shall amend the countermeasure order accordingly. The administering authority shall promptly publish the determination and any amendment to the order in the Federal Register, and shall provide a copy of any amended order to the Customs Service.

''(4) CONSULTATION WITH TRADE REPRESENTATIVE.—If paragraph (3)(B)(i) applies, the administering authority shall consult with the Trade Representative concerning whether it would be appropriate to request establishment of a dispute settlement panel under the Shipbuilding Agreement for the purpose of seeking authorization to extend the scope or duration of countermeasures for a period in excess of 4 years.

''(5) DECISION NOT TO REQUEST PANEL.—If, based on consultations under paragraph (4), the Trade Representative decides not to request establishment of a panel, the Trade Representative shall inform the party requesting the extension of the countermeasures of the reasons for its decision in writing. The decision shall not be subject to judicial review.

''(6) PANEL PROCEEDINGS.—If, based on consultations under paragraph (4), the Trade Representative requests the establishment of a panel under the Shipbuilding Agreement to authorize an extension of the period of countermeasures, and the panel authorizes such an extension, the administering authority shall promptly amend the countermeasure order. The administering authority shall publish notice of the amendment in the Federal Register.

''(f) LIST OF VESSELS SUBJECT TO COUNTERMEASURES.—

''(1) GENERAL RULE.—At least once during each 12-month period beginning on the anniversary date of a determination to impose countermeasures under this section, the administering authority shall publish in the Federal Register a list of all delivered vessels subject to countermeasures under the determination.

''(2) CONTENT OF LIST.—The list under paragraph (1) shall include the following information for each vessel, to the extent the information is available:

''(A) The name and general description of the vessel.

''(B) The vessel identification number.

''(C) The shipyard where the vessel was constructed.

''(D) The last-known registry of the vessel.

''(E) The name and address of the last-known owner of the vessel.

''(F) The delivery date of the vessel.

''(G) The remaining duration of countermeasures on the vessel.

''(H) Any other identifying information available.

''(3) AMENDMENT OF LIST.—-The administering authority may amend the list from time to time to reflect new information that comes to its attention and shall publish any amendments in the Federal Register.

''(4) SERVICE OF LIST AND AMENDMENTS.—(A) The administering authority shall serve a copy of the list described in paragraph (1) on—

''(i) the petitioner under section 802(b),

''(ii) the United States Customs Service,

''(iii) the Secretariat of the Organization for Economic Cooperation and Development,

''(iv) the owners of vessels on the list,

''(v) the shipyards on the list, and

''(vi) the government of the country in which a shipyard on the list is located.

''(B) The administering authority shall serve a copy of any amendments to the list under paragraph (3) or subsection (g)(3) on—

''(i) the parties listed in clauses (i), (ii), and (iii) of subparagraph (A), and,

''(ii) if the amendment affects their interests, the parties listed in clauses (iv), (v), and (vi) of subparagraph (A).

''(g) ADMINISTRATIVE REVIEW OF LIST OF VESSELS SUBJECT TO COUNTERMEASURES.—

''(1) REQUEST FOR REVIEW.—(A) An interested party may request in writing a review of the list described in subsection (f)(1), including any amendments thereto, to determine whether—

''(i) a vessel included in the list does not fall within the scope of the applicable countermeasure order and should be deleted, or

''(ii) a vessel not included in the list falls within the scope of the applicable countermeasure order and should be added.

''(B) Any request seeking a determination described in subparagraph (A)(i) shall be made within 90 days after the date of publication of the applicable list.

''(2) REVIEW.—If a proper request for review has been received, the administering authority shall—

''(A) publish notice of initiation of a review in the Federal Register—

''(i) not later than 15 days after the request is received, or

''(ii) if the request seeks a determination described in paragraph (1)(A)(i), not later than 15 days after the deadline described in paragraph (1)(B), and

''(B) review and determine whether the requesting party has demonstrated that—

''(i) a vessel included in the list does not qualify for such inclusion, or

''(ii) a vessel not included in the list qualifies for inclusion.

''(3) TIME FOR DETERMINATION.—The administering authority shall make its determination under paragraph (2)(B) within 90 days after the date on which the notice of initiation of such review is published. If the administering authority determines that a vessel should be added or deleted from the list, the administering authority shall amend the list accordingly. The administering authority shall promptly publish in the Federal Register the determination and any such amendment to the list.

''(h) EXPIRATION OF COUNTERMEASURES.—Upon expiration of a countermeasure order imposed under this section, the administering authority shall promptly publish a notice of the expiration in the Federal Register.

''(i) SUSPENSION OR TERMINATION OF PROCEEDINGS OR COUNTERMEASURES; TEMPORARY REDUCTION OF COUNTERMEASURES.—

''(1) IF INJURIOUS PRICING ORDER REVOKED OR SUSPENDED.—If an injurious pricing order has been revoked or suspended under section 806(d) or (e), the administering authority shall, as appropriate, suspend or terminate proceedings under this section with respect to that order, or suspend or revoke a countermeasure order issued with respect to that injurious pricing order.

''(2) IF PAYMENT DATE AMENDED.—(A) Subject to subparagraph (C), if the payment date under an injurious pricing order is amended under section 845, the administering authority shall, as appropriate, suspend proceedings or modify deadlines under this section, or suspend or amend a countermeasure order issued with respect to that injurious pricing order.

''(B) In taking action under subparagraph (A), the administering authority shall ensure that countermeasures are not applied before the date that is 30 days after publication in the Federal Register of the amended payment date.

''(C) If—

''(i) a countermeasure order is issued under subsection (c) before an amendment is made under section 845 to the payment date of the injurious pricing order to which the countermeasure order applies, and

''(ii) the administering authority determines that the period of time between the original payment date and the amended payment date is significant for purposes of determining the appropriate scope or duration of countermeasures,

the administering authority may, in lieu of acting under subparagraph (A), reinstitute proceedings under subsection (c) for purposes of issuing a new determination under that subsection.

''(j) COMMENT AND HEARING.—In the course of any proceeding under subsection (c), (d), (e), or (g), the administering authority—

''(1) shall solicit comments from interested parties, and

''(2)(A) in a proceeding under subsection (c) or (d), upon the request of an interested party, shall hold a hearing in accordance with section 841(b) in connection with that proceeding, or

''(B) in a proceeding under subsection (e) or (g), upon the request of an interested party, may hold a hearing in accordance with section 841(b) in connection with that proceeding.

''SEC. 808. INJURIOUS PRICING PETITIONS BY THIRD COUNTRIES.

''(a) FILING OF PETITION.—The government of a Shipbuilding Agreement Party may file with the Trade Representative a petition requesting that an investigation be conducted to determine if—

''(1) a vessel from another Shipbuilding Agreement Party has been sold in the United States at less than fair value, and

''(2) an industry, in the petitioning country, producing or capable of producing a like vessel is materially injured by reason of such sale.

''(b) INITIATION.—The Trade Representative, after consultation with the administering authority and the Commission and obtaining the approval of the Parties Group under the Shipbuilding Agreement, shall determine whether to initiate an investigation described in subsection (a).

''(c) DETERMINATIONS.—Upon initiation of an investigation under subsection (a), the Trade Representative shall request the following determinations be made in accordance with substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:

''(1) The administering authority shall determine whether the subject vessel has been sold at less than fair value.

''(2) The Commission shall determine whether an industry in the petitioning country is materially injured by reason of the sale of the subject vessel in the United States.

''(d) PUBLIC COMMENT.—An opportunity for public comment shall be provided, as appropriate—

''(1) by the Trade Representative, in making the determinations required by subsection (b), and

''(2) by the administering authority and the Commission, in making the determinations required by subsection (c).

''(e) ISSUANCE OF ORDER.—If the administering authority makes an affirmative determination under paragraph (1) of subsection (c), and the Commission makes an affirmative determination under paragraph (2) of subsection (c), the administering authority shall—

''(1) order an injurious pricing charge in accordance with section 806, and

''(2) make such determinations and take such other actions as are required by sections 806 and 807, as if affirmative determinations had been made under subsections (a) and (b) of section 805.

''(f) REVIEWS OF DETERMINATIONS.—For purposes of review under section 516B, if an order is issued under subsection (e)—

''(1) the final determinations of the administering authority and the Commission under subsection (c) shall be treated as final determinations made under section 805, and

''(2) determinations of the administering authority under subsection (e)(2) shall be treated as determinations made under section 806 or 807, as the case may be.

''(g) ACCESS TO INFORMATION.—Section 843 shall apply to investigations under this section, to the extent specified by the Trade Representative, after consultation with the administering authority and the Commission.

''Subtitle B—Special Rules

''SEC. 821. EXPORT PRICE.

''(a) EXPORT PRICE.—For purposes of this title, the term 'export price' means the price at which the subject vessel is first sold (or agreed to be sold) by or for the account of the foreign producer of the subject vessel to an unaffiliated United States buyer. The term 'sold (or agreed to be sold) by or for the account of the foreign producer' includes any transfer of an ownership interest, including by way of lease or long-term bareboat charter, in conjunction with the original transfer from the producer, either directly or indirectly, to a United States buyer.

''(b) ADJUSTMENTS TO EXPORT PRICE.—The price used to establish export price shall be—

''(1) increased by the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject vessel, and

''(2) reduced by—

''(A) the amount, if any, included in such price, attributable to any additional costs, charges, or expenses which are incident to bringing the subject vessel from the shipyard in the exporting country to the place of delivery,

''(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject vessel, and

''(C) all other expenses incidental to placing the vessel in condition for delivery to the buyer.

''SEC. 822. NORMAL VALUE.

''(a) DETERMINATION.—In determining under this title whether a subject vessel has been sold at less than fair value, a fair comparison shall be made between the export price and normal value of the subject vessel. In order to achieve a fair comparison with the export price, normal value shall be determined as follows:

''(1) DETERMINATION OF NORMAL VALUE.—

''(A) IN GENERAL.—The normal value of the subject vessel shall be the price described in subparagraph (B), at a time reasonably corresponding to the time of the sale used to determine the export price under section 821(a).

''(B) PRICE.—The price referred to in subparagraph (A) is—

''(i) the price at which a foreign like vessel is first sold in the exporting country, in the ordinary course of trade and, to the extent practicable, at the same level of trade, or

''(ii) in a case to which subparagraph (C) applies, the price at which a foreign like vessel is

so sold for consumption in a country other than the exporting country or the United States, if—

''(I) such price is representative, and

''(II) the administering authority does not determine that the particular market situation in such other country prevents a proper comparison with the export price.

''(C) THIRD COUNTRY SALES.—This subparagraph applies when—

''(i) a foreign like vessel is not sold in the exporting country as described in subparagraph (B)(i), or

''(ii) the particular market situation in the exporting country does not permit a proper comparison with the export price.

''(D) CONTEMPORANEOUS SALE.—For purposes of subparagraph (A), 'a time reasonably corresponding to the time of the sale' means within 3 months before or after the sale of the subject vessel or, in the absence of such sales, such longer period as the administering authority determines would be appropriate.

''(2) FICTITIOUS MARKETS.—No pretended sale, and no sale intended to establish a fictitious market, shall be taken into account in determining normal value.

''(3) USE OF CONSTRUCTED VALUE.—If the administering authority determines that the normal value of the subject vessel cannot be determined under paragraph (1)(B) or (1)(C), then the normal value of the subject vessel shall be the constructed value of that vessel, as determined under subsection (e).

''(4) INDIRECT SALES.—If a foreign like vessel is sold through an affiliated party, the price at which the foreign like vessel is sold by such affiliated party may be used in determining normal value.

''(5) ADJUSTMENTS.—The price described in paragraph (1)(B) shall be—

''(A) reduced by—

''(i) the amount, if any, included in the price described in paragraph (1)(B), attributable to any costs, charges, and expenses incident to bringing the foreign like vessel from the shipyard to the place of delivery to the purchaser,

''(ii) the amount of any taxes imposed directly upon the foreign like vessel or components thereof which have been rebated, or which have not been collected, on the subject vessel, but only to the extent that such taxes are added to or included in the price of the foreign like vessel, and

''(iii) the amount of all other expenses incidental to placing the foreign like vessel in condition for delivery to the buyer, and

''(B) increased or decreased by the amount of any difference (or lack thereof) between the export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise provided under this section) that is established to the satisfaction of the administering authority to be wholly or partly due to—

''(i) physical differences between the subject vessel and the vessel used in determining normal value, or

''(ii) other differences in the circumstances of sale.

''(6) ADJUSTMENTS FOR LEVEL OF TRADE.—The price described in paragraph (1)(B) shall also be increased or decreased to make due allowance for any difference (or lack thereof) between the export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise made under this section) that is shown to be wholly or partly due to a difference in level of trade between the export price and normal value, if the difference in level of trade—

''(A) involves the performance of different selling activities, and

''(B) is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.

In a case described in the preceding sentence, the amount of the adjustment shall be based on the price differences between the two levels of trade in the country in which normal value is determined.

''(7) ADJUSTMENTS TO CONSTRUCTED VALUE.—Constructed value as determined under subsection (d) may be adjusted, as appropriate, pursuant to this subsection.

''(b) SALES AT LESS THAN COST OF PRODUCTION.—

''(1) DETERMINATION; SALES DISREGARDED.—Whenever the administering authority has reasonable grounds to believe or suspect that the sale of the foreign like vessel under consideration for the determination of normal value has been made at a price which represents less than the cost of production of the foreign like vessel, the administering authority shall determine whether, in fact, such sale was made at less than the cost of production. If the administering authority determines that the sale was made at less than the cost of production and was not at a price which permits recovery of all costs within 5 years, such sale may be disregarded in the determination of normal value. Whenever such a sale is disregarded, normal value shall be based on another sale of a foreign like vessel in the ordinary course of trade. If no sales made in the ordinary course of trade remain, the normal value shall be based on the constructed value of the subject vessel.

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

''(A) REASONABLE GROUNDS TO BELIEVE OR SUSPECT.—There are reasonable grounds to believe or suspect that the sale of a foreign like vessel was made at a price that is less than the cost of production of the vessel, if an interested party described in subparagraph (C), (D), (E), or (F) of section 861(17) provides information, based upon observed prices or constructed prices or costs, that the sale of the foreign like vessel under consideration for the determination of normal value has been made at a price which represents less than the cost of production of the vessel.

''(B) RECOVERY OF COSTS.—If the price is below the cost of production at the time of sale but is above the weighted average cost of production for the period of investigation, such price shall be considered to provide for recovery of costs within 5 years.

''(3) CALCULATION OF COST OF PRODUCTION.—For purposes of this section, the cost of production shall be an amount equal to the sum of—

''(A) the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like vessel, during a period which would ordinarily permit the production of that vessel in the ordinary course of business, and

''(B) an amount for selling, general, and administrative expenses based on actual data pertaining to the production and sale of the foreign like vessel by the producer in question.

For purposes of subparagraph (A), if the normal value is based on the price of the foreign like vessel sold in a country other than the exporting country, the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or on their disposition which are remitted or refunded upon exportation.

''(c) NONMARKET ECONOMY COUNTRIES.—

''(1) IN GENERAL.—If—

''(A) the subject vessel is produced in a nonmarket economy country, and

''(B) the administering authority finds that available information does not permit the normal value of the subject vessel to be determined under subsection (a),

the administering authority shall determine the normal value of the subject vessel on the basis of the value of the factors of production utilized in producing the vessel and to which shall be added an amount for general expenses and profit plus the cost of expenses incidental to placing the vessel in a condition for delivery to the buyer. Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

''(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the normal value of the subject vessel under paragraph (1), the administering authority shall determine the normal value on the basis of the price at which a vessel that is—

''(A) comparable to the subject vessel, and

''(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

''(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing the vessel include, but are not limited to—

''(A) hours of labor required,

''(B) quantities of raw materials employed,

''(C) amounts of energy and other utilities consumed, and

''(D) representative capital cost, including depreciation.

''(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

''(A) at a level of economic development comparable to that of the nonmarket economy country, and

''(B) significant producers of comparable vessels.

''(d) SPECIAL RULE FOR CERTAIN MULTINATIONAL CORPORATIONS.—Whenever, in the course of an investigation under this title, the administering authority determines that—

''(1) the subject vessel was produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation which also owns or controls, directly or indirectly, other facilities for the production of a foreign like vessel which are located in another country or countries,

''(2) subsection (a)(1)(C) applies, and

''(3) the normal value of a foreign like vessel produced in one or more of the facilities outside the exporting country is higher than the normal value of the foreign like vessel produced in the facilities located in the exporting country,

the administering authority shall determine the normal value of the subject vessel by reference to the normal value at which a foreign like vessel is sold from one or more facilities outside the exporting country. The administering authority, in making any determination under this subsection, shall make adjustments for the difference between the costs of production (including taxes, labor, materials, and overhead) of the foreign like vessel produced in facilities outside the exporting country and costs of production of the foreign like vessel produced in facilities in the exporting country, if such differences are demonstrated to its satisfaction.

''(e) CONSTRUCTED VALUE.—

''(1) IN GENERAL.—For purposes of this title, the constructed value of a subject vessel shall be an amount equal to the sum of—

''(A) the cost of materials and fabrication or other processing of any kind employed in producing the subject vessel, during a period which would ordinarily permit the production of the vessel in the ordinary course of business, and

''(B)(i) the actual amounts incurred and realized by the foreign producer of the subject vessel for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like vessel, in the ordinary course of trade, in the domestic

market of the country of origin of the subject vessel, or

''(ii) if actual data are not available with respect to the amounts described in clause (i), then—

''(I) the actual amounts incurred and realized by the foreign producer of the subject vessel for selling, general, and administrative expenses, and for profits, in connection with the production and sale of the same general category of vessel in the domestic market of the country of origin of the subject vessel,

''(II) the weighted average of the actual amounts incurred and realized by producers in the country of origin of the subject vessel (other than the producer of the subject vessel) for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like vessel, in the ordinary course of trade, in the domestic market, or

''(III) if data is not available under subclause (I) or (II), the amounts incurred and realized for selling, general, and administrative expenses, and for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by foreign producers (other than the producer of the subject vessel) in connection with the sale of vessels in the same general category of vessel as the subject vessel in the domestic market of the country of origin of the subject vessel.

The profit shall, for purposes of this paragraph, be based on the average profit realized over a reasonable period of time before and after the sale of the subject vessel and shall reflect a reasonable profit at the time of such sale. For purposes of the preceding sentence, a 'reasonable period of time' shall not, except where otherwise appropriate, exceed 6 months before, or 6 months after, the sale of the subject vessel. In calculating profit under this paragraph, any distortion which would result in other than a profit which is reasonable at the time of the sale shall be eliminated.

''(2) COSTS AND PROFITS BASED ON OTHER REASONABLE METHODS.—When costs and profits are determined under paragraph (1)(B)(ii)(III), such determination shall, except where otherwise appropriate, be based on appropriate export sales by the producer of the subject vessel or, absent such sales, to export sales by other producers of a foreign like vessel or the same general category of vessel as the subject vessel in the country of origin of the subject vessel.

''(3) COSTS OF MATERIALS.—For purposes of paragraph (1)(A), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation of the subject vessel produced from such materials.

''(f) SPECIAL RULES FOR CALCULATION OF COST OF PRODUCTION AND FOR CALCULATION OF CONSTRUCTED VALUE.—For purposes of subsections (b) and (e)—

''(1) COSTS.—

''(A) IN GENERAL.—Costs shall normally be calculated based on the records of the foreign producer of the subject vessel, if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the vessel. The administering authority shall consider all available evidence on proper allocation of costs, including that which is made available by the foreign producer on a timely basis, if such allocations have been historically used by the foreign producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs.

''(B) NONRECURRING COSTS.—Costs shall be adjusted appropriately for those nonrecurring costs that benefit current or future production, or both.

''(C) STARTUP COSTS.—

''(i) IN GENERAL.—Costs shall be adjusted appropriately for circumstances in which costs incurred during the time period covered by the investigation are affected by startup operations.

''(ii) STARTUP OPERATIONS.—Adjustments shall be made for startup operations only where—

''(I) a producer is using new production facilities or producing a new type of vessel that requires substantial additional investment, and

''(II) production levels are limited by technical factors associated with the initial phase of commercial production.

For purposes of subclause (II), the initial phase of commercial production ends at the end of the startup period. In determining whether commercial production levels have been achieved, the administering authority shall consider factors unrelated to startup operations that might affect the volume of production processed, such as demand, seasonality, or business cycles.

''(iii) ADJUSTMENT FOR STARTUP OPERATIONS.—The adjustment for startup operations shall be made by substituting the unit production costs incurred with respect to the vessel at the end of the startup period for the unit production costs incurred during the startup period. If the startup period extends beyond the period of the investigation under this title, the administering authority shall use the most recent cost of production data that it reasonably can obtain, analyze, and verify without delaying the timely completion of the investigation. For purposes of this subparagraph, the startup period ends at the point at which the level of commercial production that is characteristic of the vessel, the producer, or the industry is achieved.

''(D) COSTS DUE TO EXTRAORDINARY CIRCUMSTANCES NOT INCLUDED.—Costs shall not include actual costs which are due to extraordinary circumstances (including, but not limited to, labor disputes, fire, and natural disasters) and which are significantly over the cost increase which the shipbuilder could have reasonably anticipated and taken into account at the time of sale.

''(2) TRANSACTIONS DISREGARDED.—A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of a like vessel in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

''(3) MAJOR INPUT RULE.—If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the subject vessel, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2).

"SEC. 823. CURRENCY CONVERSION.

''(a) IN GENERAL.—In an injurious pricing proceeding under this title, the administering authority shall convert foreign currencies into United States dollars using the exchange rate in effect on the date of sale of the subject vessel, except that if it is established that a currency transaction on forward markets is directly linked to a sale under consideration, the exchange rate specified with respect to such foreign currency in the forward sale agreement shall be used to convert the foreign currency.

''(b) DATE OF SALE.—For purposes of this section, 'date of sale' means the date of the contract of sale or, where appropriate, the date on which the material terms of sale are otherwise established. If the material terms of sale are significantly changed after such date, the date of sale is the date of such change. In the case of such a change in the date of sale, the administering authority shall make appropriate adjustments to take into account any unreasonable effect on the injurious pricing margin due only to fluctuations in the exchange rate between the original date of sale and the new date of sale.

"Subtitle C—Procedures

"SEC. 841. HEARINGS.

''(a) UPON REQUEST.—The administering authority and the Commission shall each hold a hearing in the course of an investigation under this title, upon the request of any party to the investigation, before making a final determination under section 805.

''(b) PROCEDURES.—Any hearing required or permitted under this title shall be conducted after notice published in the Federal Register, and a transcript of the hearing shall be prepared and made available to the public. The hearing shall not be subject to the provisions of subchapter II of chapter 5 of title 5, United States Code, or to section 702 of such title.

"SEC. 842. DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.

''(a) IN GENERAL.—If—

''(1) necessary information is not available on the record, or

''(2) an interested party or any other person—

''(A) withholds information that has been requested by the administering authority or the Commission under this title,

''(B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (b)(1) and (d) of section 844,

''(C) significantly impedes a proceeding under this title, or

''(D) provides such information but the information cannot be verified as provided in section 844(g),

the administering authority and the Commission shall, subject to section 844(c), use the facts otherwise available in reaching the applicable determination under this title.

''(b) ADVERSE INFERENCES.—If the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from—

''(1) the petition, or

''(2) any other information placed on the record.

''(c) CORROBORATION OF SECONDARY INFORMATION.—When the administering authority or the Commission relies on secondary information rather than on information obtained in the course of an investigation under this title, the administering authority and the Commission, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal.

"SEC. 843. ACCESS TO INFORMATION.

''(a) INFORMATION GENERALLY MADE AVAILABLE.—

''(1) PROGRESS OF INVESTIGATION REPORTS.—The administering authority and the Commission shall, from time to time upon request, inform the parties to an investigation under this title of the progress of that investigation.

''(2) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

''(A) interested parties or other persons providing factual information in connection with a proceeding under this title, and

''(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding,

if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.

''(3) SUMMARIES; NON-PROPRIETARY SUBMISSIONS.—The administering authority and the Commission shall disclose—

''(A) any proprietary information received in the course of a proceeding under this title if it is disclosed in a form which cannot be associated with, or otherwise be used to identify, operations of a particular person, and

''(B) any information submitted in connection with a proceeding which is not designated as proprietary by the person submitting it.

''(4) MAINTENANCE OF PUBLIC RECORD.—The administering authority and the Commission shall maintain and make available for public inspection and copying a record of all information which is obtained by the administering authority or the Commission, as the case may be, in a proceeding under this title to the extent that public disclosure of the information is not prohibited under this chapter or exempt from disclosure under section 552 of title 5, United States Code.

''(b) PROPRIETARY INFORMATION.—

''(1) PROPRIETARY STATUS MAINTAINED.—

''(A) IN GENERAL.—Except as provided in subsection (a)(4) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting the information shall not be disclosed to any person without the consent of the person submitting the information, other than—

''(i) to an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted or any other proceeding under this title covering the same subject vessel, or

''(ii) to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title.

''(B) ADDITIONAL REQUIREMENTS.—The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

''(i) either—

''(I) a nonproprietary summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

''(II) a statement that the information is not susceptible to summary, accompanied by a statement of the reasons in support of the contention, and

''(ii) either—

''(I) a statement which permits the administering authority or the Commission to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

''(II) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.

''(2) UNWARRANTED DESIGNATION.—If the administering authority or the Commission determines, on the basis of the nature and extent of the information or its availability from public sources, that designation of any information as proprietary is unwarranted, then it shall notify the person who submitted it and ask for an explanation of the reasons for the designation. Unless that person persuades the administering authority or the Commission that the designation is warranted, or withdraws the designation, the administering authority or the Commission, as the case may be, shall return it to the party submitting it. In a case in which the administering authority or the Commission returns the information to the person submitting it, the person may thereafter submit other material concerning the subject matter of the returned information if the submission is made within the time otherwise provided for submitting such material.

''(c) LIMITED DISCLOSURE OF CERTAIN PROPRIETARY INFORMATION UNDER PROTECTIVE ORDER.—

''(1) DISCLOSURE BY ADMINISTERING AUTHORITY OR COMMISSION.—

''(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding under this title (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to all interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during the proceeding. Customer names (other than the name of the United States buyer of the subject vessel) obtained during any investigation which requires a determination under section 805(b) may not be disclosed by the administering authority under protective order until either an order is published under section 806(a) as a result of the investigation or the investigation is suspended or terminated. The Commission may delay disclosure of customer names (other than the name of the United States buyer of the subject vessel) under protective order during any such investigation until a reasonable time before any hearing provided under section 841 is held.

''(B) PROTECTIVE ORDER.—The protective order under which information is made available shall contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall provide by regulation for such sanctions as the administering authority and the Commission determine to be appropriate, including disbarment from practice before the agency.

''(C) TIME LIMITATIONS ON DETERMINATIONS.—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

''(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 803(a)) after the date on which the information is submitted, or

''(ii) if—

''(I) the person submitting the information raises objection to its release, or

''(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 803(a)) after the date on which the information is submitted.

''(D) AVAILABILITY AFTER DETERMINATION.—If the determination under subparagraph (C) is affirmative, then—

''(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date, and

''(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

''(E) FAILURE TO DISCLOSE.—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.

''(2) DISCLOSURE UNDER COURT ORDER.—If the administering authority or the Commission denies a request for information under paragraph (1), then application may be made to the United States Court of International Trade for an order directing the administering authority or the Commission, as the case may be, to make the information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may issue an order, under such conditions as the court deems appropriate, which shall not have the effect of stopping or suspending the investigation, directing the administering authority or the Commission to make all or a portion of the requested information described in the preceding sentence available under a protective order and setting forth sanctions for violation of such order if the court finds that, under the standards applicable in proceedings of the court, such an order is warranted, and that—

''(A) the administering authority or the Commission has denied access to the information under subsection (b)(1),

''(B) the person on whose behalf the information is requested is an interested party who is a party to the investigation in connection with which the information was obtained or developed, and

''(C) the party which submitted the information to which the request relates has been notified, in advance of the hearing, of the request made under this section and of its right to appear and be heard.

''(d) SERVICE.—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order, except that a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

''(e) INFORMATION RELATING TO VIOLATIONS OF PROTECTIVE ORDERS AND SANCTIONS.—The administering authority and the Commission may withhold from disclosure any correspondence, private letters of reprimand, settlement agreements, and documents and files compiled in relation to investigations and actions involving a violation or possible violation of a protective order issued under subsection (c), and such information shall be treated as information described in section 552(b)(3) of title 5, United States Code.

''(f) OPPORTUNITY FOR COMMENT BY VESSEL BUYERS.—The administering authority and the Commission shall provide an opportunity for buyers of subject vessels to submit relevant information to the administering authority concerning a sale at less than fair value or countermeasures, and to the Commission concerning material injury by reason of the sale of a vessel at less than fair value.

''(g) PUBLICATION OF DETERMINATIONS; REQUIREMENTS FOR FINAL DETERMINATIONS.—

''(1) IN GENERAL.—Whenever the administering authority makes a determination under section 802 whether to initiate an investigation, or

the administering authority or the Commission makes a preliminary determination under section 803, a final determination under section 805, a determination under subsection (b), (c), (d), (e)(3)(B)(ii), (g), or (i) of section 807, or a determination to suspend an investigation under this title, the administering authority or the Commission, as the case may be, shall publish the facts and conclusions supporting that determination, and shall publish notice of that determination in the Federal Register.

''(2) CONTENTS OF NOTICE OR DETERMINATION.—The notice or determination published under paragraph (1) shall include, to the extent applicable—

''(A) in the case of a determination of the administering authority—

''(i) the names of the foreign producer and the country of origin of the subject vessel,

''(ii) a description sufficient to identify the subject vessel,

''(iii) with respect to an injurious pricing charge, the injurious pricing margin established and a full explanation of the methodology used in establishing such margin,

''(iv) with respect to countermeasures, the scope and duration of countermeasures and, if applicable, any changes thereto, and

''(v) the primary reasons for the determination, and

''(B) in the case of a determination of the Commission—

''(i) considerations relevant to the determination of injury, and

''(ii) the primary reasons for the determination.

''(3) ADDITIONAL REQUIREMENTS FOR FINAL DETERMINATIONS.—In addition to the requirements set forth in paragraph (2)—

''(A) the administering authority shall include in a final determination under section 805 or 807(c) an explanation of the basis for its determination that addresses relevant arguments, made by interested parties who are parties to the investigation, concerning the establishment of the injurious pricing charge with respect to which the determination is made, and

''(B) the Commission shall include in a final determination of injury an explanation of the basis for its determination that addresses relevant arguments that are made by interested parties who are parties to the investigation concerning the effects and impact on the industry of the sale of the subject vessel.

''SEC. 844. CONDUCT OF INVESTIGATIONS.

''(a) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

''(b) DIFFICULTIES IN MEETING REQUIREMENTS.—

''(1) NOTIFICATION BY INTERESTED PARTY.—If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

''(2) ASSISTANCE TO INTERESTED PARTIES.—The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations under this title, and shall provide to such interested parties any assistance that is practicable in supplying such information.

''(c) DEFICIENT SUBMISSIONS.—If the administering authority or the Commission determines that a response to a request for information under this title does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this title. If that person submits further information in response to such deficiency and either—

''(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

''(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (d), disregard all or part of the original and subsequent responses.

''(d) USE OF CERTAIN INFORMATION.—In reaching a determination under section 803, 805, or 807, the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission if—

''(1) the information is submitted by the deadline established for its submission,

''(2) the information can be verified,

''(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

''(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

''(5) the information can be used without undue difficulties.

''(e) NONACCEPTANCE OF SUBMISSIONS.—If the administering authority or the Commission declines to accept into the record any information submitted in an investigation under this title, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

''(f) PUBLIC COMMENT ON INFORMATION.—Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this title shall be subject to comment by other parties within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 805 or 807, shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

''(g) VERIFICATION.—The administering authority shall verify all information relied upon in making a final determination under section 805.

''SEC. 845. ADMINISTRATIVE ACTION FOLLOWING SHIPBUILDING AGREEMENT PANEL REPORTS.

''(a) ACTION BY UNITED STATES INTERNATIONAL TRADE COMMISSION.—

''(1) ADVISORY REPORT.—If a dispute settlement panel under the Shipbuilding Agreement finds in a report that an action by the Commission in connection with a particular proceeding under this title is not in conformity with the obligations of the United States under the Shipbuilding Agreement, the Trade Representative may request the Commission to issue an advisory report on whether this title permits the Commission to take steps in connection with the particular proceeding that would render its action not inconsistent with the findings of the panel concerning those obligations. The Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such request.

''(2) TIME LIMITS FOR REPORT.—The Commission shall transmit its report under paragraph (1) to the Trade Representative within 30 calendar days after the Trade Representative requests the report.

''(3) CONSULTATIONS ON REQUEST FOR COMMISSION DETERMINATION.—If a majority of the Commissioners issues an affirmative report under paragraph (1), the Trade Representatives shall consult with the congressional committees listed in paragraph (1) concerning the matter.

''(4) COMMISSION DETERMINATION.—Notwithstanding any other provision of this title, if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel. The Commission shall issue its determination not later than 120 calendar days after the request from the Trade Representative is made.

''(5) CONSULTATIONS ON IMPLEMENTATION OF COMMISSION DETERMINATION.—The Trade Representative shall consult with the congressional committees listed in paragraph (1) before the Commission's determination under paragraph (4) is implemented.

''(6) REVOCATION OF ORDER.—If, by virtue of the Commission's determination under paragraph (4), an injurious pricing order is no longer supported by an affirmative Commission determination under this title, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the injurious pricing order.

''(b) ACTION BY ADMINISTERING AUTHORITY.—

''(1) CONSULTATIONS WITH ADMINISTERING AUTHORITY AND CONGRESSIONAL COMMITTEES.—Promptly after a report or other determination by a dispute settlement panel under the Shipbuilding Agreement is issued that contains findings that—

''(A) an action by the administering authority in a proceeding under this title is not in conformity with the obligations of the United States under the Shipbuilding Agreement,

''(B) the due date for payment of an injurious pricing charge contained in an order issued under section 806 should be amended,

''(C) countermeasures provided for in an order issued under section 807 should be provisionally suspended or reduced pending the final decision of the panel, or

''(D) the scope or duration of countermeasures imposed under section 807 should be narrowed or shortened,

the Trade Representative shall consult with the administering authority and the congressional committees listed in subsection (a)(1) on the matter.

''(2) DETERMINATION BY ADMINISTERING AUTHORITY.—Notwithstanding any other provision of this title, the administering authority shall, in response to a written request from the Trade Representative, issue a determination, or an amendment to or suspension of an injurious pricing or countermeasure order, as the case may be, in connection with the particular proceeding that would render the administering

authority's action described in paragraph (1) not inconsistent with the findings of the panel.

''(3) TIME LIMITS FOR DETERMINATIONS.—The administering authority shall issue its determination, amendment, or suspension under paragraph (2)—

''(A) with respect to a matter described in subparagraph (A) of paragraph (1), within 180 calendar days after the request from the Trade Representative is made, and

''(B) with respect to a matter described in subparagraph (B), (C), or (D) of paragraph (1), within 15 calendar days after the request from the Trade Representative is made.

''(4) CONSULTATIONS BEFORE IMPLEMENTATION.—Before the administering authority implements any determination, amendment, or suspension under paragraph (2), the Trade Representative shall consult with the administering authority and the congressional committees listed in subsection (a)(1) with respect to such determination, amendment, or suspension.

''(5) IMPLEMENTATION OF DETERMINATION.—The Trade Representative may, after consulting with the administering authority and the congressional committees under paragraph (4), direct the administering authority to implement, in whole or in part, the determination, amendment, or suspension made under paragraph (2).

''(6) IMPLEMENTATION OF DETERMINATION; NOTICE OF IMPLEMENTATION.—The administering authority shall implement the determination, amendment, or suspension under paragraph (2)—

''(A) with respect to a matter described in subparagraph (A) of paragraph (1), only if the injurious pricing margin determined under paragraph (2) differs from the injurious pricing margin in the determination reviewed by the panel, and

''(B) with respect to a matter described in subparagraph (B), (C), or (D) of paragraph (1), upon issuance of the determination, amendment, or suspension under paragraph (2).

The administering authority shall publish notice of such implementation in the Federal Register.

''(c) OPPORTUNITY FOR COMMENT BY INTERESTED PARTIES.—Before issuing a determination, amendment, or suspension, the administering authority, in a matter described in subsection (b)(1)(A), or the Commission, in a matter described in subsection (a)(1), as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.

''Subtitle D—Definitions

''SEC. 861. DEFINITIONS.

''For purposes of this title:

''(1) ADMINISTERING AUTHORITY.—The term 'administering authority' means the Secretary of Commerce, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under this title are transferred by law.

''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(3) COUNTRY.—The term 'country' means a foreign country, a political subdivision, dependent territory, or possession of a foreign country and, except as provided in paragraph (16)(E)(iii), may not include an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.

''(4) INDUSTRY.—

''(A) IN GENERAL.—Except as used in section 808, the term 'industry' means the producers as a whole of a domestic like vessel, or those producers whose collective capability to produce a domestic like vessel constitutes a major proportion of the total domestic capability to produce a domestic like vessel.

''(B) PRODUCER.—A 'producer' of a domestic like vessel includes an entity that is producing the domestic like vessel and an entity with the capability to produce the domestic like vessel.

''(C) CAPABILITY TO PRODUCE A DOMESTIC LIKE VESSEL.—A producer has the 'capability to produce a domestic like vessel' if it is capable of producing a domestic like vessel with its present facilities or could adapt its facilities in a timely manner to produce a domestic like vessel.

''(D) RELATED PARTIES.—(i) In an investigation under this title, if a producer of a domestic like vessel and the foreign producer, seller (other than the foreign producer), or United States buyer of the subject vessel are related parties, or if a producer of a domestic like vessel is also a United States buyer of the subject vessel, the domestic producer may, in appropriate circumstances, be excluded from the industry.

''(ii) For purposes of clause (i), a domestic producer and the foreign producer, seller, or United States buyer shall be considered to be related parties, if—

''(I) the domestic producer directly or indirectly controls the foreign producer, seller or United States buyer,

''(II) the foreign producer, seller, or United States buyer directly or indirectly controls the domestic producer,

''(III) a third party directly or indirectly controls the domestic producer and the foreign producer, seller, or United States buyer, or

''(IV) the domestic producer and the foreign producer, seller, or United States buyer directly or indirectly control a third party and there is reason to believe that the relationship causes the producer to act differently than a nonrelated producer.

For purposes of this subparagraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.

''(E) PRODUCT LINES.—In an investigation under this title, the effect of the sale of the subject vessel shall be assessed in relation to the United States production (or production capability) of a domestic like vessel if available data permit the separate identification of production (or production capability) in terms of such criteria as the production process or the producer's profits. If the domestic production (or production capability) of a domestic like vessel has no separate identity in terms of such criteria, then the effect of the sale shall be assessed by the examination of the production (or production capability) of the narrowest group or range of vessels, which includes a domestic like vessel, for which the necessary information can be provided.

''(5) BUYER.—The term 'buyer' means any person who acquires an ownership interest in a vessel, including by way of lease or long-term bareboat charter, in conjunction with the original transfer from the producer, either directly or indirectly, including an individual or company which owns or controls a buyer. There may be more than one buyer of any one vessel.

''(6) UNITED STATES BUYER.—The term 'United States buyer' means a buyer that is any of the following:

''(A) A United States citizen.

''(B) A juridical entity, including any corporation, company, association, or other organization, that is legally constituted under the laws and regulations of the United States or a political subdivision thereof, regardless of whether the entity is organized for pecuniary gain, privately or government owned, or organized with limited or unlimited liability.

''(C) A juridical entity that is owned or controlled by nationals or entities described in subparagraphs (A) and (B). For the purposes of this subparagraph—

''(i) the term 'own' means having more than a 50 percent interest, and

''(ii) the term 'control' means the actual ability to have substantial influence on corporate behavior, and control is presumed to exist where there is at least a 25 percent interest.

If ownership of a company is established under clause (i), other control is presumed not to exist unless it is otherwise established.

''(7) OWNERSHIP INTEREST.—An 'ownership interest' in a vessel includes any contractual or proprietary interest which allows the beneficiary or beneficiaries of such interest to take advantage of the operation of the vessel in a manner substantially comparable to the way in which an owner may benefit from the operation of the vessel. In determining whether such substantial comparability exists, the administering authority shall consider—

''(A) the terms and circumstances of the transaction which conveys the interest,

''(B) commercial practice,

''(C) whether the vessel subject to the transaction is integrated into the operations of the beneficiary or beneficiaries, and

''(D) whether in practice there is a likelihood that the beneficiary or beneficiaries of such interests will take advantage of and the risk for the operation of the vessel for a significant part of the life-time of the vessel.

''(8) VESSEL.—

''(A) IN GENERAL.—Except as otherwise specifically provided under international agreements, the term 'vessel' means—

''(i) a self-propelled seagoing vessel of 100 gross tons or more used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredgers), and

''(ii) a tug of 365 kilowatts or more,

that is produced in a Shipbuilding Agreement Party or a country that is not a Shipbuilding Agreement Party and not a WTO member.

''(B) EXCLUSIONS.—The term 'vessel' does not include—

''(i) any fishing vessel destined for the fishing fleet of the country in which the vessel is built,

''(ii) any military vessel, and

''(iii) any vessel sold before the date that the Shipbuilding Agreement enters into force with respect to the United States, except that any vessel sold after December 21, 1994, for delivery more than 5 years after the date of the contract of sale shall be a 'vessel' for purposes of this title unless the shipbuilder demonstrates to the administering authority that the extended delivery date was for normal commercial reasons and not to avoid applicability of this title.

''(C) SELF-PROPELLED SEAGOING VESSEL.—A vessel is 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.

''(D) MILITARY VESSEL.—A 'military vessel' is a vessel which, according to its basic structural characteristics and ability, is intended to be used exclusively for military purposes.

''(9) LIKE VESSEL.—The term 'like vessel' means a vessel of the same type, same purpose, and approximate size as the subject vessel and possessing characteristics closely resembling those of the subject vessel.

''(10) DOMESTIC LIKE VESSEL.—The term 'domestic like vessel' means a like vessel produced in the United States.

''(11) FOREIGN LIKE VESSEL.—Except as used in section 822(e)(1)(B)(ii)(II), the term 'foreign like vessel' means a like vessel produced by the foreign producer of the subject vessel for sale in the producer's domestic market or in a third country.

''(12) SAME GENERAL CATEGORY OF VESSEL.—The term 'same general category of vessel' means a vessel of the same type and purpose as the subject vessel, but of a significantly different size.

''(13) SUBJECT VESSEL.—The term 'subject vessel' means a vessel subject to investigation under section 801 or 808.

''(14) FOREIGN PRODUCER.—The term 'foreign producer' means the producer or producers of the subject vessel.

''(15) EXPORTING COUNTRY.—The term 'exporting country' means the country in which the subject vessel was built.

''(16) MATERIAL INJURY.—

''(A) IN GENERAL.—The term 'material injury' means harm which is not inconsequential, immaterial, or unimportant.

''(B) SALE AND CONSEQUENT IMPACT.—In making determinations under sections 803(a) and 805(b), the Commission in each case—

''(i) shall consider—

''(I) the sale of the subject vessel,

''(II) the effect of the sale of the subject vessel on prices in the United States for a domestic like vessel, and

''(III) the impact of the sale of the subject vessel on domestic producers of the domestic like vessel, but only in the context of production operations within the United States, and

''(ii) may consider such other economic factors as are relevant to the determination regarding whether there is or has been material injury by reason of the sale of the subject vessel.

In the notification required under section 805(d), the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination.

''(C) EVALUATION OF RELEVANT FACTORS.—For purposes of subparagraph (B)—

''(i) SALE OF THE SUBJECT VESSEL.—In evaluating the sale of the subject vessel, the Commission shall consider whether the sale, either in absolute terms or relative to production or demand in the United States, in terms of either volume or value, is or has been significant.

''(ii) PRICE.—In evaluating the effect of the sale of the subject vessel on prices, the Commission shall consider whether—

''(I) there has been significant price underselling of the subject vessel as compared with the price of a domestic like vessel, and

''(II) the effect of the sale of the subject vessel otherwise depresses or has depressed prices to a significant degree or prevents or has prevented price increases, which otherwise would have occurred, to a significant degree.

''(iii) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

''(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

''(II) factors affecting domestic prices, including with regard to sales,

''(III) actual and potential negative effects on cash flow, employment, wages, growth, ability to raise capital, and investment,

''(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of a domestic like vessel, and

''(V) the magnitude of the injurious pricing margin.

The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.

''(D) STANDARD FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury.

''(E) THREAT OF MATERIAL INJURY.—

''(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of the sale of the subject vessel, the Commission shall consider, among other relevant economic factors—

''(I) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased sales of a foreign like vessel to United States buyers, taking into account the availability of other export markets to absorb any additional exports,

''(II) whether the sale of a foreign like vessel or other factors indicate the likelihood of significant additional sales to United States buyers,

''(III) whether sale of the subject vessel or sale of a foreign like vessel by the foreign producer are at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further sales,

''(IV) the potential for product-shifting if production facilities in the exporting country, which can presently be used to produce a foreign like vessel or could be adapted in a timely manner to produce a foreign like vessel, are currently being used to produce other types of vessels,

''(V) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of a domestic like vessel, and

''(VI) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of the sale of the subject vessel.

''(ii) BASIS FOR DETERMINATION.—The Commission shall consider the factors set forth in clause (i) as a whole. The presence or absence of any factor which the Commission is required to consider under clause (i) shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.

''(iii) EFFECT OF INJURIOUS PRICING IN THIRD-COUNTRY MARKETS.—

''(I) IN GENERAL.—The Commission shall consider whether injurious pricing in the markets of foreign countries (as evidenced by injurious pricing findings or injurious pricing remedies of other Shipbuilding Agreement Parties, or anti-dumping determinations of, or measures imposed by, other countries, against a like vessel produced by the producer under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign producer or United States buyer concerning this issue.

''(II) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities as a whole shall be treated as a single foreign country.

''(F) CUMULATION FOR DETERMINING MATERIAL INJURY.—

''(i) IN GENERAL.—For purposes of clauses (i) and (ii) of subparagraph (C), and subject to clause (ii) of this subparagraph, the Commission shall cumulatively assess the effects of sales of foreign like vessels from all foreign producers with respect to which—

''(I) petitions were filed under section 802(b) on the same day,

''(II) investigations were initiated under section 802(a) on the same day, or

''(III) petitions were filed under section 802(b) and investigations were initiated under section 802(a) on the same day,

if, with respect to such vessels, the foreign producers compete with each other and with producers of a domestic like vessel in the United States market.

''(ii) EXCEPTIONS.—The Commission shall not cumulatively assess the effects of sales under clause (i)—

''(I) with respect to which the administering authority has made a preliminary negative determination, unless the administering authority subsequently made a final affirmative determination with respect to those sales before the Commission's final determination is made, or

''(II) from any producer with respect to which the investigation has been terminated.

''(iii) RECORDS IN FINAL INVESTIGATIONS.—In each final determination in which it cumulatively assesses the effects of sales under clause (i), the Commission may make its determinations based on the record compiled in the first investigation in which it makes a final determination, except that when the administering authority issues its final determination in a subsequently completed investigation, the Commission shall permit the parties in the subsequent investigation to submit comments concerning the significance of the administering authority's final determination, and shall include such comments and the administering authority's final determination in the record for the subsequent investigation.

''(G) CUMULATION FOR DETERMINING THREAT OF MATERIAL INJURY.—To the extent practicable and subject to subparagraph (F)(ii), for purposes of clause (i) (II) and (III) of subparagraph (E), the Commission may cumulatively assess the effects of sales of like vessels from all countries with respect to which—

''(i) petitions were filed under section 802(b) on the same day,

''(ii) investigations were initiated under section 802(a) on the same day, or

''(iii) petitions were filed under section 802(b) and investigations were initiated under section 802(a) on the same day,

if, with respect to such vessels, the foreign producers compete with each other and with producers of a domestic like vessel in the United States market.

''(17) INTERESTED PARTY.—The term 'interested party' means, in a proceeding under this title—

''(A)(i) the foreign producer, seller (other than the foreign producer), and the United States buyer of the subject vessel, or

''(ii) a trade or business association a majority of the members of which are the foreign producer, seller, or United States buyer of the subject vessel,

''(B) the government of the country in which the subject vessel is produced or manufactured,

''(C) a producer that is a member of an industry,

''(D) a certified union or recognized union or group of workers which is representative of an industry,

''(E) a trade or business association a majority of whose members are producers in an industry,

''(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E), and

''(G) for purposes of section 807, a purchaser who, after the effective date of an order issued under that section, entered into a contract of sale with the foreign producer that is subject to the order.

''(18) AFFIRMATIVE DETERMINATIONS BY DIVIDED COMMISSION.—If the Commissioners voting on a determination by the Commission are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination. For the purpose of applying this paragraph when the issue before the Commission is to determine whether there is or has been—

''(A) material injury to an industry in the United States,

''(B) threat of material injury to such an industry, or

''(C) material retardation of the establishment of an industry in the United States,

by reason of the sale of the subject vessel, an affirmative vote on any of the issues shall be treated as a vote that the determination should be affirmative.

''(19) ORDINARY COURSE OF TRADE.—The term 'ordinary course of trade' means the conditions and practices which, for a reasonable time before the sale of the subject vessel, have been normal in the shipbuilding industry with respect to a like vessel. The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:

''(A) Sales disregarded under section 822(b)(1).

''(B) Transactions disregarded under section 822(f)(2).

''(20) NONMARKET ECONOMY COUNTRY.—

''(A) IN GENERAL.—The term 'nonmarket economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of vessels in such country do not reflect the fair value of the vessels.

''(B) FACTORS TO BE CONSIDERED.—In making determinations under subparagraph (A) the administering authority shall take into account—

''(i) the extent to which the currency of the foreign country is convertible into the currency of other countries,

''(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

''(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

''(iv) the extent of government ownership or control of the means of production,

''(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

''(vi) such other factors as the administering authority considers appropriate.

''(C) DETERMINATION IN EFFECT.—

''(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

''(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

''(D) DETERMINATIONS NOT IN ISSUE.—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle A.

''(21) SHIPBUILDING AGREEMENT.—The term 'Shipbuilding Agreement' means The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, resulting from negotiations under the auspices of the Organization for Economic Cooperation and Development, and entered into on December 21, 1994.

''(22) SHIPBUILDING AGREEMENT PARTY.—The term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a Party to the Shipbuilding Agreement, and with respect to which the United States applies the Shipbuilding Agreement.

''(23) WTO AGREEMENT.—The term 'WTO Agreement' means the Agreement defined in section 2(9) of the Uruguay Round Agreements Act.

''(24) WTO MEMBER.—The term 'WTO member' means a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO Agreement.

''(25) TRADE REPRESENTATIVE.—The term 'Trade Representative' means the United States Trade Representative.

''(26) AFFILIATED PERSONS.—The following persons shall be considered to be 'affiliated' or 'affiliated persons':

''(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

''(B) Any officer or director of an organization and such organization.

''(C) Partners.

''(D) Employer and employee.

''(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization, and such organization.

''(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

''(G) Any person who controls any other person, and such other person.

For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

''(27) INJURIOUS PRICING.—The term 'injurious pricing' refers to the sale of a vessel at less than fair value.

''(28) INJURIOUS PRICING MARGIN.—

''(A) IN GENERAL.—The term 'injurious pricing margin' means the amount by which the normal value exceeds the export price of the subject vessel.

''(B) MAGNITUDE OF THE INJURIOUS PRICING MARGIN.—The magnitude of the injurious pricing margin used by the Commission shall be—

''(i) in making a preliminary determination under section 803(a) in an investigation (including any investigation in which the Commission cumulatively assesses the effect of sales under paragraph (16)(F)(i)), the injurious pricing margin or margins published by the administering authority in its notice of initiation of the investigation; and

''(ii) in making a final determination under section 805(b), the injurious pricing margin or margins most recently published by the administering authority before the closing of the Commission's administrative record.

''(29) COMMERCIAL INTEREST REFERENCE RATE.—The term 'Commercial Interest Reference Rate' or 'CIRR' means an interest rate that the administering authority determines to be consistent with Annex III, and appendices and notes thereto, of the Understanding on Export Credits for Ships, resulting from negotiations under the auspices of the Organization for Economic Cooperation, and entered into on December 21, 1994.

''(30) ANTIDUMPING.—

''(A) WTO MEMBERS.—In the case of a WTO member, the term 'antidumping' refers to action taken pursuant to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

''(B) OTHER CASES.—In the case of any country that is not a WTO member, the term 'antidumping' refers to action taken by the country against the sale of a vessel at less than fair value that is comparable to action described in subparagraph (A).

''(31) BROAD MULTIPLE BID.—The term 'broad multiple bid' means a bid in which the proposed buyer extends an invitation to at least all the producers in the industry known by the buyer to be capable of building the subject vessel.''.

SEC. 102. ENFORCEMENT OF COUNTERMEASURES.

Part II of title IV of the Tariff Act of 1930 is amended by adding at the end the following:

''SEC. 468. SHIPBUILDING AGREEMENT COUNTERMEASURES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, upon receiving from the Secretary of Commerce a list of vessels subject to countermeasures under section 807, the Customs Service shall deny any request for a permit to lade or unlade passengers, merchandise, or baggage from or onto those vessels so listed.

''(b) EXCEPTIONS.—Subsection (a) shall not be applied to deny a permit for the following:

''(1) To unlade any United States citizen or permanent legal resident alien from a vessel included in the list described in subsection (a), or to unlade any refugee or any alien who would otherwise be eligible to apply for asylum and withholding of deportation under the Immigration and Nationality Act.

''(2) To lade or unlade any crewmember of such vessel.

''(3) To lade or unlade coal and other fuel supplies (for the operation of the listed vessel), ships' stores, sea stores, and the legitimate equipment of such vessel.

''(4) To lade or unlade supplies for the use or sale on such vessel.

''(5) To lade or unlade such other merchandise, baggage, or passenger as the Customs Service shall determine necessary to protect the immediate health, safety, or welfare of a human being.

''(c) CORRECTION OF MINISTERIAL OR CLERICAL ERRORS.—

''(1) PETITION FOR CORRECTION.—If the master of any vessel whose application for a permit to lade or unlade has been denied under this section believes that such denial resulted from a ministerial or clerical error, not amounting to a mistake of law, committed by any Customs officer, the master may petition the Customs Service for correction of such error, as provided by regulation.

''(2) INAPPLICABILITY OF SECTIONS 514 AND 520.—Notwithstanding paragraph (1), imposition of countermeasures under this section shall not be deemed an exclusion or other protestable decision under section 514, and shall not be subject to correction under section 520.

''(3) PETITIONS SEEKING ADMINISTRATIVE REVIEW.—Any petition seeking administrative review of any matter regarding the Secretary of Commerce's decision to list a vessel under section 807 must be brought under that section.

''(d) PENALTIES.—In addition to any other provision of law, the Customs Service may impose a civil penalty of not to exceed $10,000 against the master of any vessel—

''(1) who submits false information in requesting any permit to lade or unlade; or

''(2) who attempts to, or actually does, lade or unlade in violation of any denial of such permit under this section.''.

SEC. 103. JUDICIAL REVIEW IN INJURIOUS PRICING AND COUNTERMEASURE PROCEEDINGS.

(a) JUDICIAL REVIEW.—Part III of title IV of the Tariff Act of 1930 is amended by inserting after section 516A the following:

''SEC. 516B. JUDICIAL REVIEW IN INJURIOUS PRICING AND COUNTERMEASURE PROCEEDINGS.

''(a) REVIEW OF DETERMINATION.—

''(1) IN GENERAL.—Within 30 days after the date of publication in the Federal Register of—

''(A)(i) a determination by the administering authority under section 802(c) not to initiate an investigation,

''(ii) a negative determination by the Commission under section 803(a) as to whether there is or has been reasonable indication of material injury, threat of material injury, or material retardation,

''(iii) a determination by the administering authority to suspend or revoke an injurious pricing order under section 806(d) or (e),

''(iv) a determination by the administering authority under section 807(c),

''(v) a determination by the administering authority in a review under section 807(d),

''(vi) a determination by the administering authority concerning whether to extend the scope or duration of a countermeasure order under section 807(e)(3)(B)(ii),

''(vii) a determination by the administering authority to amend a countermeasure order under section 807(e)(6),

''(viii) a determination by the administering authority in a review under section 807(g),

''(ix) a determination by the administering authority under section 807(i) to terminate proceedings, or to amend or revoke a countermeasure order,

''(x) a determination by the administering authority under section 845(b), with respect to a matter described in paragraph (1)(D) of that section, or

''(B)(i) an injurious pricing order based on a determination described in subparagraph (A) of paragraph (2),

''(ii) notice of a determination described in subparagraph (B) of paragraph (2),

''(iii) notice of implementation of a determination described in subparagraph (C) of paragraph (2), or

''(iv) notice of revocation of an injurious pricing order based on a determination described in subparagraph (D) of paragraph (2),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

''(2) REVIEWABLE DETERMINATIONS.—The determinations referred to in paragraph (1)(B) are—

''(A) a final affirmative determination by the administering authority or by the Commission under section 805, including any negative part of such a determination (other than a part referred to in subparagraph (B)),

''(B) a final negative determination by the administering authority or the Commission under section 805,

''(C) a determination by the administering authority under section 845(b), with respect to a matter described in paragraph (1)(A) of that section, and

''(D) a determination by the Commission under section 845(a) that results in the revocation of an injurious pricing order.

''(3) EXCEPTION.—Notwithstanding the 30-day limitation imposed by paragraph (1) with regard to an order described in paragraph (1)(B)(i), a final affirmative determination by the administering authority under section 805 may be contested by commencing an action, in accordance with the provisions of paragraph (1), within 30 days after the date of publication in the Federal Register of a final negative determination by the Commission under section 805.

''(4) PROCEDURES AND FEES.—The procedures and fees set forth in chapter 169 of title 28, United States Code, apply to an action under this section.

''(b) STANDARDS OF REVIEW.—

''(1) REMEDY.—The court shall hold unlawful any determination, finding, or conclusion found—

''(A) in an action brought under subparagraph (A) of subsection (a)(1), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

''(B) in an action brought under subparagraph (B) of subsection (a)(1), to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.

''(2) RECORD FOR REVIEW.—

''(A) IN GENERAL.—For purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

''(i) a copy of all information presented to or obtained by the administering authority or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 843(a)(2); and

''(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

''(B) CONFIDENTIAL OR PRIVILEGED MATERIAL.—The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

''(c) STANDING.—Any interested party who was a party to the proceeding under title VIII shall have the right to appear and be heard as a party in interest before the United States Court of International Trade in an action under this section. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, and within the time prescribed by rules of the court.

''(d) DEFINITIONS.—For purposes of this section:

''(1) ADMINISTERING AUTHORITY.—The term 'administering authority' has the meaning given that term in section 861(1).

''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(3) INTERESTED PARTY.—The term 'interested party' means any person described in section 861(17).''.

(b) CONFORMING AMENDMENTS.—

(1) JURISDICTION OF THE COURT.—Section 1581(c) of title 28, United States Code, is amended by inserting ''or 516B'' after ''section 516A''.

(2) RELIEF.—Section 2643 of title 28, United States Code, is amended—

(A) in subsection (c)(1) by striking ''and (5)'' and inserting ''(5), and (6)''; and

(B) in subsection (c) by adding at the end the following new paragraph:

''(6) In any civil action under section 516B of the Tariff Act of 1930, the Court of International Trade may not issue injunctions or any other form of equitable relief, except with regard to implementation of a countermeasure order under section 468 of that Act, upon a proper showing that such relief is warranted.''.

TITLE II—OTHER PROVISIONS

SEC. 201. EQUIPMENT AND REPAIR OF VESSELS.

Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466), is amended by adding at the end the following new subsection:

''(i) The duty imposed by subsection (a) shall not apply with respect to activities occurring in a Shipbuilding Agreement Party, as defined in section 861(22), with respect to—

''(1) self-propelled seagoing vessels of 100 gross tons or more that are used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredges), and

''(2) tugs of 365 kilowatts or more.

A vessel shall be considered 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.''.

SEC. 202. EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.

No person other than the United States—

(1) shall have any cause of action or defense under the Shipbuilding Agreement or by virtue of congressional approval of the agreement, or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, the District of Columbia, any State, any political subdivision of a State, or any territory or possession of the United States on the ground that such action or inaction is inconsistent with such agreement.

SEC. 203. IMPLEMENTING REGULATIONS.

After the date of the enactment of this Act, the heads of agencies with functions under this Act and the amendments made by this Act may issue such regulations as may be necessary to ensure that this Act is appropriately implemented on the date the Shipbuilding Agreement enters into force with respect to the United States.

SEC. 204. AMENDMENTS TO THE MERCHANT MARINE ACT, 1936.

The Merchant Marine Act, 1936, is amended as follows:

(1) Section 511(a)(2) (46 App. U.S.C. 1161(a)(2)) is amended by inserting after ''1939,'' the following: ''or, if the vessel is a Shipbuilding Agreement vessel, constructed in a Shipbuilding Agreement Party, but only with regard to moneys deposited, on or after the date on which the Shipbuilding Trade Agreement Act takes effect, into a construction reserve fund established under subsection (b)''.

(2) Section 601(a) (46 App. U.S.C. 1171(a)) is amended by striking '', and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date'' and inserting ''and that such vessel or vessels were built in the United States, or, if the vessel or vessels are Shipbuilding Agreement vessels, in a Shipbuilding Agreement Party''.

(3) Section 606(6) (46 App. U.S.C. 1176(6)) is amended by inserting ''or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party or in the United States'' before '', except in an emergency.''.

(4) Section 607 (46 App. U.S.C. 1177) is amended as follows:

(A) Subsection (a) is amended by inserting ''or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party,'' after ''built in the United States''.

(B) Subsection (k) is amended as follows:

(i) Paragraph (1) is amended by striking subparagraph (A) and inserting the following:

''(A)(i) constructed in the United States and, if reconstructed, reconstructed in the United States or in a Shipbuilding Agreement Party, or

''(ii) that is a Shipbuilding Agreement vessel and is constructed in a Shipbuilding Agreement Party and, if reconstructed, is reconstructed in a Shipbuilding Agreement Party or in the United States,''.

(ii) Paragraph (2)(A) is amended to read as follows:

''(A)(i) constructed in the United States and, if reconstructed, reconstructed in the United States or in a Shipbuilding Agreement Party, or

''(ii) that is a Shipbuilding Agreement vessel and is constructed in a Shipbuilding Agreement Party and, if reconstructed, is reconstructed in a Shipbuilding Agreement Party or in the United States, but only with regard to moneys deposited into the fund on or after the date on which the Shipbuilding Trade Agreement Act takes effect,''.

(5) Section 610 (46 App. U.S.C. 1180) is amended by striking ''shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date,'' and inserting ''shall be built in the United States or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party,''.

(6) Section 901(b)(1) (46 App. U.S.C. 1241(b)(1)) is amended by striking the third sentence and inserting the following:

''For purposes of this section, the term 'privately owned United States-flag commercial vessels' shall be deemed to include—

''(A) any privately owned United States-flag commercial vessel constructed in the United States, and if rebuilt, rebuilt in the United States or in a Shipbuilding Agreement Party on or after the date on which the Shipbuilding Trade Agreement Act takes effect, and

''(B) any privately owned vessel constructed in a Shipbuilding Agreement Party on or after the date on which the Shipbuilding Trade Agreement Act takes effect, and if rebuilt, rebuilt in a Shipbuilding Agreement Party or in the United States, that is documented pursuant to chapter 121 of title 46, United States Code.

The term 'privately owned United States-flag commercial vessels' shall also be deemed to include any cargo vessel that so qualified pursuant to section 615 of this Act or this paragraph before the date on which the Shipbuilding Trade Agreement Act takes effect. The term 'privately owned United States-flag commercial vessels' shall not be deemed to include any liquid bulk cargo vessel that does not meet the requirements of section 3703a of title 46, United States Code.''.

(7) Section 905 (46 App. U.S.C. 1244) is amended by adding at the end the following:

''(h) The term 'Shipbuilding Agreement' means the Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, which resulted from

negotiations under the auspices of the Organization for Economic Cooperation and Development, and was entered into on December 21, 1994.

''(i) The term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a Party to the Shipbuilding Agreement, and with respect to which the United States applies the Shipbuilding Agreement.

''(j) The term 'Shipbuilding Agreement vessel' means a vessel to which the Secretary determines Article 2.1 of the Shipbuilding Agreement applies.

''(k) The term 'Export Credit Understanding' means the Understanding on Export Credits for Ships which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development and was entered into on December 21, 1994.

''(l) The term 'Export Credit Understanding vessel' means a vessel to which the Secretary determines the Export Credit Understanding applies.''.

(8) Section 1104A (46 App. U.S.C. 1274) is amended as follows:

(A) Paragraph (5) of subsection (b) is amended to read as follows:

''(5) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percent per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary, except that, with respect to Export Credit Understanding vessels, and Shipbuilding Agreement vessels, the obligations shall bear interest at a rate the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be;''.

(B) Subsection (i) is amended to read as follows:

''(i)(1) Except as provided in paragraph (2), the Secretary may not, with respect to—

''(A) the general 75 percent or less limitation contained in subsection (b)(2),

''(B) the 87½ percent or less limitation contained in the 1st, 2nd, 4th, or 5th proviso to subsection (b)(2) or in section 1112(b), or

''(C) the 80 percent or less limitation in the 3rd proviso to such subsection,

establish by rule, regulation, or procedure any percentage within any such limitation that is, or is intended to be, applied uniformly to all guarantees or commitments to guarantee made under this section that are subject to the limitation.

''(2) With respect to Export Credit Understanding vessels and Shipbuilding Agreement vessels, the Secretary may establish by rule, regulation, or procedure a uniform percentage that the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be.''.

(C) Section 1104B(b) (46 App. U.S.C. 1274a(b)) is amended by striking the period at the end and inserting the following:

'', except that, with respect to Export Credit Understanding vessels and Shipbuilding Agreement vessels, the Secretary may establish by rule, regulation, or procedure a uniform percentage that the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be.''.

SEC. 205. WITHDRAWAL FROM THE AGREEMENT.

(a) WITHDRAWAL.—

(1) NOTICE.—The President shall give notice, under Article 14 of the Shipbuilding Agreement, of intent of the United States to withdraw from the Shipbuilding Agreement, as soon as is practicable after one or more Shipbuilding Agreement Parties give notice, under such article, of intent to withdraw from the Shipbuilding Agreement, if paragraph (2) applies.

(2) TONNAGE OF NEW CONSTRUCTION IN WITHDRAWING PARTIES.—This paragraph applies if the combined gross tonnage of new Shipbuilding Agreement vessels constructed in all Shipbuilding Agreement Parties who have given notice to withdraw from the Shipbuilding agreement, which were delivered in the calendar year preceding the calendar year in which the notice is given, is 15 percent or more of the gross tonnage of new Shipbuilding Agreement vessels that were constructed in all Shipbuilding Agreement Parties and were delivered in the calendar year preceding the calendar year in which the notice is given.

(3) TERMINATION OF WITHDRAWAL.—If a Shipbuilding Agreement Party described in paragraph (2) takes action to terminate its withdrawal from the Shipbuilding Agreement, so that paragraph (2) would not apply if that Party had not given the notice to withdraw, the President may take the necessary steps to terminate the notice of withdrawal of the United States from the Shipbuilding Agreement.

(b) REINSTATEMENT OF LAWS.—If the United States withdraws from the Shipbuilding agreement on the date on which such withdrawal becomes effective, the amendments made by section 204 shall be deemed not to have been made, and the provisions of law amended by section 204 shall, on and after such date, be effective as if this Act had not been enacted.

SEC. 206. DEFINITIONS.

As used in this title—

(1) the terms ''Shipbuilding Agreement'', ''Shipbuilding agreement Party'', and ''Shipbuilding Agreement vessel'' have the meanings given those terms in subsections (h), (i), and (j), respectively, of section 905 of the Merchant Marine Act, 1936, as added by section 204(7) of this Act; and

(2) the terms ''GATT 1994'' and ''Uruguay Round Agreements'' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act.

TITLE III—REVENUE OFFSET

SEC. 301. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL SHIPPING INCOME IS NOT INCLUDIBLE IN GROSS INCOME.

(a) IN GENERAL.—Section 883 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(d) PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL SHIPPING INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

''(1) IN GENERAL.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of a ship or ships is not includible in gross income by reason of subsection (a)(1) or section 872(b)(1) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

''(2) ADDITIONAL PENALTIES FOR FAILING TO DISCLOSE POSITION.—If a taxpayer fails to meet the requirement of paragraph (1) with respect to any taxable year—

''(A) the amount of the income from the international operation of a ship or ships—

''(i) which is from sources without the United States, and

''(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

''(B) no deductions or credits shall be allowed which are attributable to income from the international operation of a ship or ships.

''(3) REASONABLE CAUSE EXCEPTION.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 872(b) of such Code is amended by striking ''Gross income'' and inserting ''Except as provided in section 883(d), gross income''.

(2) Paragraph (1) of section 883(a) of such Code is amended by striking ''Gross income'' and inserting ''Except as provided in subsection (d), gross income''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Notwithstanding section 3, the amendments made by this section shall apply to taxable years beginning after the later of—

(A) December 31, 1996, or

(B) the date that the Shipbuilding Agreement enters into force with respect to the United States.

(2) COORDINATION WITH TREATIES.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) INFORMATION TO BE PROVIDED BY CUSTOMS SERVICE.—The United States Custom Service shall provide the Secretary of the Treasury or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

The CHAIRMAN. No other amendment is in order except the amendment printed in part 2 of the report. That amendment may be offered only by a member designated in the report, shall be considered read, shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider the amendment printed in part 2 of the report.

AMENDMENT OFFERED BY MR. BATEMAN

Mr. BATEMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BATEMAN: In section 3 (page 2, line 15), strike ''This'' and insert ''Except as provided in section 206, this''.

Redesignate section 206 as section 209, and insert the following after section 205:

SEC. 296. APPLICABILITY OF TITLE XI AMENDMENTS.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Notwithstanding any provision of the Shipbuilding Agreement or the Export Credit Understanding, the amendments made by paragraph (8) of section 204 shall not apply with respect to any commitment to guarantee made under title XI of the Merchant Marine Act, 1936, before January 1, 1999, with respect to a vessel delivered—

(A) before January 1, 2002, or

(B) in the case of unusual circumstances to which paragraph (2) applies, as soon after January 1, 2002, as is practicable.

(2) UNUSUAL CIRCUMSTANCES.—This paragraph applies in a case in which unusual circumstances beyond the control of the parties concerned prevent the delivery of a vessel by January 1, 2002. As used in this paragraph, the term ''unusual circumstances'' means acts of God (other than ordinary storms or inclement weather conditions), labor strikes, acts of sabotage, explosions, fires, or vandalism, and similar circumstances.

SEC. 207. OTHER LAWS NOT AFFECTED.

The Shipbuilding Agreement shall not affect, directly or indirectly, the Merchant

Marine Act, 1920, the Act of June 19, 1886 (46 U.S.C. App. 289), or any other provision of law set forth in Accompanying Note 2 to Annex II to the Shipbuilding Agreement, and shall not provide any mechanism to subject any producer of vessels in the United States to financial penalties, duties, bid restrictions, unfavorable bid preferences, or withdrawal of concessions under the GATT 1994 or other Uruguay Round Agreements, in the competition for international commercial vessel construction or reconstruction orders because of construction of vessels by United States shipbuilders for operation in the coastwise trade of the United States.

SEC. 208. PROTECTION OF UNITED STATES INTERESTS.

Nothing in the Shipbuilding Agreement shall be construed to prevent the United States from taking any action which it considers necessary for the protection of essential security interests or from invoking its sovereign authority to define, for purposes of exclusion from coverage under the Shipbuilding Agreement and from any dispute or challenge based on Annex I to the Shipbuilding Agreement, ''military vessel'', ''military reserve vessel'', or ''essential security interest'' on a case by case basis, as determined by the Secretary of Defense.

In paragraph (1) of section 209 (as redesignated by this amendment), strike ''and 'Shipbuilding Agreement vessel' have the meanings given those terms in subsections (h), (i), and (j)'' and insert ''`Shipbuilding Agreement vessel', and 'Export Credit Understanding' have the meanings given those terms in subsections (h), (i), (j), and (k)''

Page 6, strike line 19 and all that follows through page 7, line 2.

Page 7, line 3, insert ''(I) if'' before ''the petitioner''.

Page 7, strike lines 9 through 11 and insert the following:

''(II) if the petitioner was not invited to tender a bid, the petition''.

Page 7, line 19, strike ''(i)(III)'' and insert ''(i)(II)''.

Page 9, line 10, strike ''(i) or (ii)'' and insert ''(i)(I)''.

Page 9, line 18, strike ''(1)(B)(iii)'' and insert ''(1)(B)(i)(II)''.

Page 49, add the following after line 24:

''SEC. 809. THIRD COUNTRY SALES.

''(a) FILING OF PETITION.—Any interested party that would be eligible to file a petition under section 802(b)(1) with respect to a sale if such sale had been to a United States buyer may, with respect to a sale of a vessel by a foreign producer in a Shipbuilding Agreement Party to a buyer in a third country that is a Shipbuilding Agreement Party, file with the Trade Representative a petition alleging that—

''(1) such vessel has been sold at less than fair value; and

''(2) the industry in the United States producing or capable of producing a like vessel is materially injured by reason of such sale.

''(b) DETERMINATION.—Upon receipt of a petition under subsection (a), the Trade Representative shall request the following determinations to be made in accordance with substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:

''(1) The administering authority shall determine whether there is reasonable cause to believe that the subject vessel has been sold at less than fair value.

''(2) The Commission shall determine whether there is reasonable cause to believe that the industry in the United States is materially injured by reason of such sale.

''(c) COMPLAINT BY TRADE REPRESENTATIVE.—If the administering authority makes an affirmative determination under paragraph (1) of subsection (b), and the Commission makes an affirmative determination under paragraph (2) of subsection (b), the Trade Representative shall make application to the country of the buyer of the subject vessel for an injurious pricing action and relief similar to that available under section 808. The Trade Representative shall advise the petitioner of the proceedings undertaken by the third country in response to such application and shall permit the petitioner to participate in such proceedings to the greatest extent practicable.''

Page 102, line 9, strike ''or 808'' and insert '', 808, or 809''.

In the table of contents for chapter 8 of title VII of the Tariff Act of 1930 (page 3, after line 9), insert the following after the item relating to section 808:

''Sec. 809. Third country sales.''

Page 100, line 20, strike ''and''; on line 21, strike ''(iii)'' and insert ''(iv)'', and insert the following after line 20:

''(iii) a military reserve vessel, and''.

Page 101, insert the following after line 15:

''(E) MILITARY RESERVE VESSEL.—A 'military reserve vessel' is a vessel that has been constructed with national defense features and characteristics required by the Secretary of Defense for the purpose of supporting the United States Armed Forces in a contingency.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. BATEMAN] and a Member opposed will each control 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I ask unanimous consent that 15 minutes of the time allotted to me on the Committee on National Security be assigned to the gentleman from California [Mr. DELLUMS].

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BATEMAN. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, my amendment will address a number of deficiencies in the underlying text of H.R. 2754. Again I wish to emphasize that my complaints with this agreement are not over the pros and cons of subsidizing this industry or any other industry. This is not a fight over subsidies. It is, however, a fight over the fairness of this agreement as it relates to our large domestic shipyards.

This amendment will not make the agreement perfect, but it will negate to some degree its negative impact on the large shipyards which have been committed to building naval vessels.

Let me explain how this agreement works from the perspective of our shipyards during the process of transitioning from 100 percent Navy work to a combination of Navy and commercial work. Take, for example, the title XI loan guarantee program which my amendment addresses. Under the agreement in H.R. 2754, as presently before my colleagues, the favorable terms are offered effective July 15, 1996. Current law, which my amendment seeks to retain for a period of 30 months, allows U.S. Maritime Administration to issue loan guarantees for the construction of vessels in U.S. yards. Those guarantees allow for a loan repayment period of up to 25 years and a downpayment required of 12.5 percent. Under this agreement this will change to a repayment term of only 12 years and require a downpayment of 20 percent.

In simple terms, the shipowner will have to pay off the mortgage twice as fast and will have to come up with almost double the downpayment if he chooses to build in a U.S. shipyard.

The more favorable terms which my amendment seeks to retain for only 30 additional months was the product of extensive debate between the House and the Senate during consideration of the fiscal year 1994 defense authorization bill. The Senate had, at the urging of the administration, sought to adopt at that time the less favorable terms which we are being asked to adopt now. The House version recognized that if we were to offer any chance to our large U.S. yards to move to commercial ship construction, that we had to offer a program to encourage foreign purchases to at least give U.S. shipyards one competitive tool.

The Committee on National Security was well aware that our foreign competitors had received literally billions of dollars annually in subsidies. We also knew that it would take more than 24 months to have our yards retooled and market a totally new product. Remarkably two of our shipyards, Newport News in Virginia and Avondale in Louisiana are making the transition having recently begun construction, thanks to title XI loan guarantees, on double-hull commercial tankers.

It is important to keep in mind that our northern competitors have benefited from literally billions of dollars in subsidies over the years. As my colleagues can see from charts that we put before them, the annual average has exceeded $8 billion for our six major competitors. Our title XI program has amounted to an average of only $50 billion since fiscal year 1994.

The advantage of my amendment is severalfold. It brings to an end subsidies. Yes, it is a compromise. It also recognizes that we cannot wish budgets, as tight as they are, to afford to get in subsidy battles with other nations. With the compromise here is that it recognizes that our foreign competitors were able to retain under the guise of restructuring a large package which lasts well into 1999.

In other words, my amendment, as it addresses title XI, brings some measure of fairness to this agreement, fairness which our negotiators choose not to insist on. It is now up to the Congress to step up and correct the deficiency.

Let me briefly respond to charges that this amendment will result in the agreement falling apart. Our negotiators are already at work getting an extension of the delivery date on vessels which are built using the title XI

guarantees. They have already gained a delay of 6 months from the original effective date.

Now, I appreciate that they do not wish to approach our trading partners again but for what is, by any fair assessment, a very modest extension. However, it is the obligation and the duty of Congress not to accept every agreement that has been negotiated. We are not here to simply rubber stamp an agreement if we think it is wrong.

Finally, my amendment corrects several other deficiencies, particularly as they relate to the Jones Act and DOD procurements. As presently drafted, this agreement may be used as a wedge against the Jones Act. The Jones Act requires that all merchandise transported to points in the United States must be carried on U.S.-registered and U.S.-built vessels. This agreement appears to allow foreign countries to retaliate against U.S. companies if U.S. shipbuilders construct more than 200,000 tons of Jones Act trade vessels annually for the first 3 years. After 3 years, any construction creates a presumption that the rights and balances of the parties is upset and sanctions can be imposed.

This part of the en bloc amendment simply assures that exemption from the Jones Act, which our trade negotiators tell us is consistent with the agreement even though the OECD representatives insist the Jones Act must go away. The U.S. Trade Representatives noted in our hearing that European Union interpretation of the Jones Act provisions were wrong. We are simply making it absolutely clear that nothing in this agreement affects the Jones Act. The Committee on National Security believes the changes to domestic law within the jurisdiction of the Congress and the imposition of penalties by foreign entities for compliance with the domestic statute is inappropriate. My amendment prevents this from happening. If our Trade Representative is correct and the Jones Act is not affected, my amendment clearly can do no harm. If they are incorrect, my amendment is critically needed. We should protect the Jones Act and do so, and to do so my colleagues should vote for my amendment.

Last, my amendment would clarify that nothing in the agreement should be construed as preventing the United States from taking any action which it considers necessary for the protection of its essential security interests. This part of the amendment would allow the United States to invoke its sovereign authority to define for the purposes of exclusion from the agreement the terms, quote, military vessel, unquote, military reserve vessel, or, quote, essential security interests on a case-by-case basis as determined by the Secretary of Defense. This part of the amendment would prevent an international trade organization from defining what is or is not in the national security interests of the United States.

Finally, this amendment would allow greater rights for U.S. shipbuilders to petition the U.S. Trade Representative if they believe other countries are selling ships at less than the cost to foreign countries.

In conclusion, the Committee on National Security changes are modest, reasonable, and crucial. They will not bring down this agreement as the opponents would have us believe. If it does, it demonstrates the signatories are not seriously interested in ending shipbuilding subsidies, and if they are not so interested, then the agreement is worthless.

I urge my colleagues' support if they believe it is important to preserve a strong defense industrial base that will be available if, God forbid, we ever need to mobilize our shipbuilders.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is the gentleman from Illinois [Mr. CRANE] opposed to the amendment?

Mr. CRANE. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois is recognized for 30 minutes.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am adamantly opposed to this amendment. If implemented, it would cause the agreement to disintegrate, leaving us with nothing but many wasted years. Make no mistake: the amendment violates the agreement in a fatal way. We have received letters from a number of our trading partners telling us that if this amendment is adopted, we will not have implemented the agreement and that they will not renegotiate the agreement. We cannot afford to have them walk away.

Let me rebut the arguments raised by the supporters of this amendment. First, we do not need to eliminate our title XI program in order to comply with the agreement. We merely have to scale it back to meet the agreement requirements, just as our trading partners must. We will achieve balance instead of a war of escalation that we cannot and will not win.

Second, our national security is completely protected under the agreement. The agreement contains an exception that allows a government to back away if it believes its national security interests are at stake. The Department of defense has also sent us a letter stating, and I quote, that ''the Agreement will not adversely affect our national security.'' This statement is powerful evidence that the agreement does not threaten our national security.

Third, our negotiators were able to achieve an exception for the Jones Act, something no other country was able to achieve. Although I agree that the Jones Act is not affected, I do not believe that we need specific statutory language that says so. But more importantly, I believe that this amendment goes too far. I am concerned that we could potentially violate a whole series of agreements, let alone the Shipbuilding Agreement, by prohibiting such measures from taking effect. There is no need to put us at such risk. As the Defense Department stated in the letter I quoted earlier, the agreement ''does not change cabotage laws, that are clearly vital to our national security.''

We have heard some discussion that the amendment represents a compromise position because there are some members that wanted even tougher language. Mr. Chairman, a serious violation is still a serious violation. Merely because the amendment keeps the current title XI program in effect for 30 months as opposed to a longer period of time does not change the fact that any extension of the current title XI program violates the agreement.

Nor can it be said that the amendment merely extends the transition period. Let us not be naive. We would be asking for more benefits than we currently have but, at the same time, would be requiring our trading partners to implement all of the terms of the agreement immediately. But trade agreements do not work that way. We have to give up something, too. But the reality is that our shipyards will feel the pinch considerably less than our trading partners: Our $50 million in title XI loan guarantees compared to billions of dollars in foreign subsidies. And we do not even have to give up our $50 million. Instead, we just have to make sure that we do not make guarantees in a manner that violates the agreement.

Let me read what our administration and some of our trading partners have said about the amendment. U.S. Trade Representative Charlene Barshefsky has stated:

> I want to make clear that the substitute amendment to H.R. 2754 approved by the National Security Committee * * * modifies the legislation in ways that are clearly incompatible with the agreement and unacceptable to the other signatories.

The EU Ambassador to the United States has stated:

> This amendment clearly is inconsistent with the terms of the agreement as negotiated between the parties. * * * This significant amendment would not be acceptable to the European Community since it would be contrary to the basic objectives and balance of mutual concessions contained in the agreement. I cannot envisage the circumstances under which signatories of the OECD agreement would be willing to reopen negotiations. The adoption of the amendment would put the agreement in serious jeopardy.

The OECD has stated:

> If this amendment is attached to H.R. 2754 and passed by the House of Representatives, the United States is putting in jeopardy the entry into force of the Agreement.

For all of these reasons, Mr. Chairman, let me be clear that a vote for the amendment is a vote against the agreement. Contrary to what the supporters are arguing, this amendment would not improve the agreement; it would destroy it. I urge my colleagues to join

together in a bipartisan effort to support our shipbuilding industry and to oppose the amendment.

Mr. Chairman, I include the following information for the RECORD:

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT,
Paris, June 4, 1996.

Hon. HERBERT H. BATEMAN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: I understand that the mark-up by the House National Security Committee of HR 2754, a bill to approve and implement the provisions of the 1994 ''Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry'' has led to an amendment by yourself, among others, that would extend the provisions of the present Title XI Loan Guarantee Program until January 1999, with the vessels constructed using these terms being required to be delivered by January 1, 2002. It is clear that this proposal will be in contradiction to the Agreement and a breach of its provisions. As you know, the essential approach to shipbuilding subsidization in the Agreement and a guarantee of its effectiveness is equal treatment of all Parties and quick elimination, i.e. by entry into force, of all existing support measures.

Let me therefore express my great concern that if this amendment is attached to HR 2754 and passed by the House of Representatives, the United States is putting in jeopardy the entry into force of the Agreement.

Failure to bring the Agreement into effect, though possibly of some advantage for the US shipbuilding industry in the very short-term, will be of great harm to it in the longer-term. Failure will, inter alia, prompt a resurgence of shipbuilding subsidies in the other countries—which as you know have severely affected the competitiveness of US yards in the past. Furthermore, it would deprive the United States shipbuilding industry of the tool to act against dumping in the world shipbuilding market.

I therefore urge you to reconsider your amendment as the legislation makes its progress on the floor of the House of Representatives. Strict and immediate implementation of the Agreement seems to me to be the way of ensuring the long-term viability of the shipbuilding industries in the United States, as well as those of the other Parties to the Agreement.

Sincerely,

P.M. OLBERG,
Ambassador.

EUROPEAN UNION, DELEGATION OF THE EUROPEAN COMMISSION,
Washington, DC, May 31, 1996.

Hon. HERBERT H. BATEMAN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: I am writing on behalf of the European Commission to express our considerable concern with respect to the amendment passed by the House National Security Committee in its mark-up of the OECD shipbuilding implementing legislation. The amendment calls for an extension of the term of Title XI financing for ship construction for thirty months. Furthermore the amendment would clearly state that the agreement does not require changes in the Jones Act and that certain Department of Defense procurements are not covered.

This amendment clearly is inconsistent with the terms of the agreement as negotiated between the parties.

The agreement is the result of five years of complex negotiations which have led to the adoption of the basic principles originally proposed by the United States (i.e. the prohibition of virtually all forms of future government subsidies). Therefore this significant amendment would not be acceptable to the European Community since it would be contrary to the basic objectives and balance of mutual concessions contained in the agreement. I cannot envisage the circumstances under which signatories of the OECD agreement would be willing to reopen negotiations.

The adoption of the amendment would put the agreement in serious jeopardy. Therefore, I should like to urge you to take the above into account in future consideration of the bill.

Sincerely Yours,

HUGO PAEMEN,
Ambassador.

EMBASSY OF JAPAN,
Washington, DC, June 5, 1996.

Hon. PHILIP M. CRANE,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN CRANE: Upon the instruction from my government, I wish to draw your attention to an important and urgent matter concerning the ''OECD Shipbuilding Agreement'' (the Agreement respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry) which is to be ratified by 15 June.

Recently we were informed that the amendments of the implementing bill, which would not be consistent with the obligations under the Agreement, was made in a U.S. House committee. We noted with surprise that such an action has been taken in the U.S., which was the initiator and driving force behind the negotiations of the Agreement.

This Agreement was negotiated for several years and aims to reach normal competitive conditions in the world commercial shipbuilding and repair industry. We are gravely concerned that amending the Agreement would, in fact, make it impossible to enter into force. It would seriously undermine the credibility of the U.S., if the Agreement, made by the U.S. initiatives, would not enter into force due to the U.S. failure to conclude it.

In Japan, this Agreement was approved by the House of Representatives on 31 May and is to be put to a vote in the responsible committee of the House of Councilors in the very near future. The implementing legislation was already approved by the Diet on 5 June. Thus, we are approaching to the goal in time for the target date of 15 June.

I would like to invite you to review the above situations and impacts and strongly encourage the U.S. to quickly conclude this Agreement as it is.

Sincerely,

——— SAITO,
Ambassador of Japan.

ROYAL NORWEGIAN EMBASSY,
Washington, DC, June 5, 1996.

Hon. CHARLENE BARSHEFSKY,
Acting U.S. Trade Representative,
Washington, DC.

DEAR AMBASSADOR BARSHEFSKY: I am writing to you to express the Norwegian Government's grave concern regarding the amendments passed by the National Security Committee of the House of Representatives in its mark-up last week of the legislation for implementation of the OECD Shipbuilding Agreement.

Several of the amendments, most notably the provisions for extending the Title XI shipbuilding loan guarantee program and the provisions for removing the applicability of the Agreement with respect to the building of Jones Act vessels, are clearly inconsistent with the terms of Agreement.

The OECD Shipbuilding Agreement is the result of many years of complex negotiations and represents a carefully crafted compromise between the parties to the Agreement. My Government holds the view that the Agreement is of vital importance for the return to normal competitive conditions in the commercial shipbuilding industry.

Norway has ratified the OECD Agreement, and would find that the introduction of amendments such as those proposed by the National Security Committee would destroy the balance of obligations and, thus, undermine the foundation upon which the Agreement was built. On the Norwegian side, we do not foresee circumstances whereby the signatories of the OECD Agreement would be prepared to reopen negotiations.

Hoping that you will convey to Congress Norway's concern that adoption of the aforementioned amendments would seriously jeopardize the OECD Agreement, I remain.

Sincerely yours.

KARSTEN KLEPSVIK,
Chargé d'Affaires ai.

□ 1200

Mr. Chairman, I reserve the balance of my time.

Mr. DELLUMS. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise in strong support of the Bateman amendment. It is absolutely essential for our national security and the security of our economy that we continue to have a shipbuilding industry. It seems to me, Mr. Chairman, that there is no better public-private partnership than the loan guarantee. I want to congratulate the gentleman from Virginia [Mr. BATEMAN] for having brought this absolutely vital amendment to us. I urge my colleagues to support it, both for the economy and for our national security.

Mr. DELLUMS. Mr. Chairman, I yield 4 minutes to my distinguished colleague, the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I want to thank the gentleman from California for yielding this time to me.

Mr. Chairman, as the former chairman of the Committee on Merchant Marine and Fisheries, or as the chairman of the late Committee on Merchant Marine and Fisheries, I rise today in very strong support of the amendment offered by the gentleman from Virginia [Mr. BATEMAN]. Mr. BATEMAN and I, when we had the Committee on Merchant Marine and Fisheries, worked very, very hard on behalf of the maritime industry. I am very happy that he has continued to do so over on the Committee on National Security, as I have tried to do on the Committee on Infrastructure and Transportation.

Mr. Chairman, I commend the gentleman from Virginia and the other members of the National Security Committee for recognizing the need to improve the OECD Shipbuilding Trade Agreement to make it more equitable for the United States shipbuilding industry.

The United States initiated negotiations for the OECD Shipbuilding Trade

Agreement 5 years ago in order to end the massive government subsidies that give foreign shipbuilders an unfair competitive advantage. Unfortunately, the final OECD agreement fails to meet the objective of eliminating foreign government shipbuilding subsidies. For instance, the agreement contains a major restricting loophole which European Governments are using to spend millions of dollars for the modernization of their shipyards. In fact, the French Government refused to even sign the agreement until it was allowed to spend $480 million for such restructuring of its shipyards. In addition, United States trade negotiators agreed to grandfather certain subsidy programs by South Korea and Germany, which were initiated during the negotiations. Yet, the United States is expected to immediately depredate the title XI loan guarantee program for U.S. shipbuilders—despite the fact that U.S. shipbuilders have not enjoyed a direct Government subsidy in over a decade.

The OECD agreement is full of loopholes and exemptions that will benefit foreign shipbuilders. Moreover, the agreement does not even cover such major shipbuilding nations such as Poland, China, Taiwan, and Russia, allowing those countries to continue their direct and substantial subsidization of their domestic shipbuilding. Yet, the United States is expected to immediately reduce the current Title XI: Loan Guarantee Program. This will cause immediate harm to the U.S. shipbuilding industry.

With Navy shipbuilding at an all time low, it is critical for our yards to secure commercial work. And, for the first time in 35 years, American shipbuilders are experiencing a resurgence in commercial business. These recently signed commercial contracts were made possible by the Title XI: Ship Loan Guarantee Program. Yet, the OECD agreement and the bill would bring a screeching halt to this resurgence by rendering the title XI program ineffective.

A 30-month extension of the modest title XI, as provided in the Bateman amendment, is needed to give U.S. shipyards an adequate transition period to ensure their continued viability. This is a reasonable request when compared to the unfair competitive advantage subsidized foreign shipbuilders have enjoyed for the past decade—and will continue to enjoy in China, Poland, and other nonsignatory nations.

This amendment is the absolute minimum we can, and must, enact. I urge my colleagues to support the Bateman amendment.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2754 as approved by the Committee on Ways and Means, and to commend the chairman of the committee and the gentleman from Florida [Mr. GIBBONS] for their steadfast work in securing enactment of this historic agreement.

Unfortunately, in spite of their efforts, some individuals argue that no agreement is better than this agreement. In reality, if the Bateman amendment is adopted, that is exactly what we would have: No agreement.

To all those people, I say, take off your blinders and recognize that, embodied in this agreement, is our best chance to revitalize our domestic industry. For years we have witnessed the continued decline of the U.S. shipbuilding industry at the hands of massive foreign subsidization. The remaining American commercial shipbuilders have become the most efficient in the world. Yet no amount of belt-tightening could ever overcome the enormous subsidy margins provided by their foreign competitors.

Over the past several years, many have expressed frustration with the negotiating of this agreement. I must say that while the road to this final agreement has been extremely difficult, I am confident that this agreement provides our domestic shipbuilders with the best opportunity to compete in a fair world market.

If Members believe they are helping our domestic shipbuilding industry by voting for the Bateman amendment, let me tell the Members, I believe they are wrong. Our failure to pass this measure as approved by the Committee on Ways and Means will likely spur existing subsidies by our foreign competitors to record levels, and this would certainly be the final and fatal blow to our domestic shipbuilding industry.

Mr. Chairman, I urge my colleagues to defeat the Bateman amendment and adopt this historic and sound international agreement.

Mr. BATEMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I commend the loyalty of the gentlewoman from Washington [Ms. DUNN] to the chairman of the committee she serves on, but I believe she is wrong.

Mr. Chairman, let me go to a little different direction. I truly believe that both under Republican and Democrat administrations, our State Department has been the weak link of this country. While we have strong militaries, the American worker can compete against any nation in the world, but yet our trade agreements which I supported, NAFTA and GATT, they have been treated very, very poorly as far as the administration of them. Who ends up paying for that? The American worker, Mr. Chairman.

If we take a look in which title XI uses $50 million, why was it created in the last couple of years? Under OPA 90 we wanted to build dual hull tankers. There is no money to build ships in the United States, because foreign nations have subsidized by billions of dollars and cut on the west coast. NASCO is the only shipbuilder left on the west coast. We only built one ship in this decade, because foreign nations, with their cutthroat economic tactics, have cut and killed the American worker. So we established it not only to help the environment, so we could build tankers, but to neutralize that system.

In the meantime, while we build one ship, they build 100. I cannot tell the Members just the economy of scale. If you build 100 ships, it is much cheaper to build those ships. They say let us do away with title XI, and that will neutralize this situation. No, it will not, Mr. Chairman, because they still have the advantage of all of these orders and all of these ships they are building, which makes our ships cost much more, which we cannot sell. All we are asking is to give us a level playing field.

Mr. Chairman, I think for the first time this country has a chance to walk softly and carry a big stick. Let us approach this trade agreement for a change with a benefit to the American worker, not to the benefit of foreign trading interests. The President was right on his trading policies, but we have to get tough.

Do Members think the Secretary of State, under either Republican or Democratic administrations, is going to push and support this? No, they are not. Let us support the American worker, let us support the Bateman amendment.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Chairman, the agreement that is really before us, the OECD agreement, is an agreement which I think all of us would argue, at least the concept of the agreement, will greatly benefit the United States of America. It would end the subsidies that other countries have been doing for years, the dumping that other countries have done for years to adversely affect the American shipbuilding industry.

All we need to do is look at the facts on the ground in this country today, or the facts in the shipyards. Those facts are that the United States right now does not sell very many ships in terms of the world market, an infinitesimal percentage of those ships in the world market, because of the type of system that exists today and that this agreement is trying to end.

Now in front of us, the Bateman amendment says, well, this agreement is going to adversely affect the defense of the United States of America, our national security. That is why we need the Batement amendment. I would reiterate what actually has been pointed out by the chairman of the subcommittee previously, the gentleman from Illinois [Mr. CRANE], that the Defense Department, the Joint Chiefs, have obviously gone through this agreement, have sent correspondence to the chairman of the committee the gentleman

from South Carolina, [Mr. SPENCE] specifically, categorically stating that there would be no adverse effect. There is a specific national defense exemption that exists in the agreement.

Mr. Chairman, I think it is really unfortunate to raise this issue, really almost as a scare tactic, versus what the facts are as based through the Joint Chiefs.

□ 1215

The other issue that I would raise is, it has been brought out, the whole issue that this is a jobs loss issue for the United States of America. Let us look at the facts. The facts are we are not producing a heck of a lot of jobs in terms of commercial production and, in fact, the commercial production that would exist, the potential for us to compete in that market is far greater than really any potential loss that exists.

Mr. DELLUMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me surface an issue that has not been dealt with and just put it on the table so we all can look at it. That is that this bill, there is joint jurisdiction on this piece of legislation.

The tragedy of this institution is that we tend to get caught up and see the world in very narrow terms, and that is through the narrow prism of our committee jurisdiction. But someone was wise enough, Mr. Chairman, to refer this bill to two committees.

I would hope that the process would allow us to bring together the perspectives and the perceptions of both committees in the hope that in joining those two perceptions, we will arrive at the wisest decision, so we do not get caught up in knee-jerk responses on the basis of a committee jurisdiction. I do not know taxes. I am not on Ways and Means. But I will debate anyone in this town on national security matters, because that has been my job for 25 years here.

We looked at this bill. Where are we in agreement? First, that this is a maritime nation. Second, that we need to stimulate shipbuilding. Third, that we need to stimulate commercial shipbuilding. Fourth, that American workers and shipbuilders believe that it is in their mutual self-interest to end government subsidies of shipbuilding. So let us take that off the table. We all agree with that, so we do not have to sword fight over these issues.

Where is the area of disagreement? The area of disagreement is that we believe that this agreement is flawed with respect to its transition implications. When speaking to the persons that negotiated the agreement, they admitted that they never sought transition assistance to the American shipbuilding industry.

Did other countries do it? The answer is yes. I repeat, and underscore for the purposes of emphasis: Spain, $1.4 billion in restructuring aid; Portugal, $110 million in restructuring aid; Belgium, $74 million in restructuring aid; South Korea, restructuring aid, we believe that that amount is somewhere around $750 million plus bailout guarantees to the Daewoo shipbuilding industry.

France, unknown total amount at this time, but we know minimally $480 million. Special offers are currently being made by other members of the European Community to gain France's support for this agreement. Germany, a package to modernize, restructure, and cover losses of shipyards in the former East Germany.

So some other Nation's negotiators looked at transition, and these subsidies that I spoke to were granted to January 31, 1999, Mr. Chairman. So somebody saw the need for transition.

We are being asked to ratify an agreement, as I have said on more than one occasion today, and we have a responsibility to bring our intellectual capacity, our economic understanding and our political prowess to this situation and make the best decision. We tend to engage in hyperbole around here. ''Killer amendment.'' I have not seen anything die in the 25 years I have been around here, and I have gone after some things to try to kill them, so that is a bunch of hyperbole, Mr. Chairman.

As I said before, the world wants this agreement, we want this agreement, I want this agreement, the shipbuilders want the agreement, and thousands and thousands of American workers want this agreement. They are the stakeholders. But when they looked at the agreement, they said, ''Hey, fellows, what about the transition? What about us until January 1999?'' All the Bateman amendment does is says, ''Here is some transition assistance, 30 months.''

Loan guarantee program. Where were all the people around here when we put in this loan guarantee program and fought to get a measly $50 million in loan guarantees for an economic conversion program because a lot of people said, ''Wait a minute, you're spending DOD dollars to stimulate commercial shipbuilding development?'' We said that if we do not build some kind of ships, we are going to lose our industrial base.

That is why we have a National Security Committee. That is why we have Ways and Means. We study certain things, but our collective perception is where the great wisdom is.

We are simply saying that this is an important agreement, it is a wonderful agreement. I have complimented the gentleman from Florida and I said, without equivocation, I am one of his greatest fans on the floor of this Congress. There is no finer person in this institution.

I am simply saying that my point of departure is on the basis of the problems that it gives our American shipbuilding industry in the transition, and our American workers, who are extremely sensitive to these issues. They have all communicated with all of us here and said, ''We want the agreement, the intent makes sense, but in the transition, we feel disadvantaged.''

I do not think this agreement dies, because there is an imperative larger than this amendment. It is the world community coming together. But we can enter that stage, that world stage, as rational and intelligent people and say, just as these other nations did in their restructuring aid, that we can restructure as well.

That is what this gentleman's argument is all about, not to kill the agreement. That would be stupid. It would be bizarre. It would be extreme. It would be self-defeating. But it would seem to me to allow it to go forward when other nations continue to have this kind of extraordinary advantage to January 1999 stabs at the agreement, the very people we choose to help, the American shipbuilding industry, the American worker, and at the end of the day the American citizen, because we are a maritime Nation.

That is this gentleman's argument, so I am not trying to engage in any scare tactics, but I would make this point. We have six major shipbuilding industries, and when Ronald Reagan was spending $300 billion a year on the military budget, everybody was building ships, they were coming out of our ears. That day is over. There is no such thing as a 600-ship Navy anymore. The gentleman from Mississippi pointed out we are moving toward a 150-ship Navy.

So if we are not going to build naval ships because we are cutting the military budget, we have got to build some other kind of ships to keep this going, keep these people working, keep the economy moving. It is in the area of commercial ships, in a post-cold-war environment, where our future lies. So we want to see this agreement, but we want to see the transition period speak to us as eloquently as this restructuring speaks to these other countries that are moving toward signing this agreement.

A final point. One of my colleagues said that this amendment would violate the agreement. We cannot violate anything that we have not agreed to as yet. That is why we are here, to use our brains, to use our ingenuity, to use our competence to decide how and what we will agree with.

I hope my colleagues will join me in overwhelming support of the Bateman amendment, overwhelming support of the American shipbuilding industry, overwhelming support of the hundreds of thousands of American workers who desperately need us to do this, and overwhelming support for a transition period that speaks to the dignity of the respect and the reality of the American shipbuilding industry.

Mr. Chairman, I reserve the balance of my time.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, the comments of our colleague from California are eloquent as always. I take a back seat to no one in my admiration of the work that he has done in the interests of economic conversion. Nothing could be more important to the economy of this Nation.

Mr. Chairman, in many areas, American industries and their workers have had to complete against heavily subsidized European firms. Even where the gap between the level of subsidies has been the greatest—most notably in the areas of aerospace and agriculture—American industries have largely been able to overcome this added challenge.

However, in shipbuilding, American firms have simply been at too great a disadvantage. We have two choices of actions to address this: complete by enacting—and inevitably increasing—our own subsidies, or use our economic leverage to convince our trading partners to reduce their own subsidies.

As public sector deficits have emerged as an increasing drag on the economies of all nations, those partners have seen the advantages of reducing their spending on subsidies. That is part of the reason we have this agreement before us today.

We must also recognize the reality that we cannot afford a subsidy war. The continuation of the title XI program unchanged for another 3 years, as the Bateman amendment would accomplish, will not alter that fact. It will only convince our trading partners to resurrect the subsidies that have crippled our ability to compete in the past.

The complexities and challenges of international competition will continue to cause pain and disruption in this country and across the world. But when we can convince other nations to level the international playing fiend, the opportunities of trade become that much more apparent. The decision we face today is between seizing such an opportunity or hanging on to the vestiges of a disappointing past. I urge my colleagues to oppose the Bateman amendment and support the bill.

Mr. BATEMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Chairman, I will be supporting the Bateman amendments, but I also want to make clear that I do not think the shipbuilding agreement itself is the solution. It will in all likelihood make much more difficult if not impossible U.S. shipbuilders' pursuit of commercial shipbuilding orders in the international market.

This agreement is fatally flawed in that it permits other governments to continue direct subsidy shipbuilding payments to their yards until 1999 as long as those subsidies are committed by the end of this year. The last direct U.S. commercial subsidy program was unilaterally terminated by our Government in 1981, a full 15 years ago. I find it appalling that U.S. negotiators took part in formulation of an agreement in which numerous exceptions are granted to specific subsidizing foreign governments totaling billions of dollars. How this combination of provisions does anything other than make the international commercial playing field even more lopsided against unsubsidized American shipbuilders escapes me.

A French shipyard received a subsidy package in the range of $480 million after the agreements were concluded and our negotiators had returned home. That event alone should have provided more than ample grounds for our Government to insist on reopening the negotiations for the purpose of gaining more equitable treatment for the unsubsidized U.S. industry. Other subsidies are actually provided for in the agreement, including subsidies to Spain, Portugal, and Belgium.

It is unfortunate, to say the least, that the administration chose to ignore this information and not respond favorably last December to the formal request of the six major U.S. shipbuilders which represent 95 percent of all active American shipbuilding workers that the United States not sign the agreement in its present form.

I will support the Bateman amendments but I will also oppose final passage. Bateman will fix some of the weaknesses in the bill, but, by the same token, they do not go far enough.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

□ 1230

Mr. RICHARDSON. Mr. Chairman, I speak as a 14-year member of the Democratic Party with a 90-percent labor voting record. The AFL–CIO has been mentioned here. Yes, they are opposed, but let me state that their opposition stems from following the lead of the big Navy-oriented yards.

Mr. Chairman, while 80 percent or more of total employment in shipbuilding is in these big yards, these yards primarily build Navy ships, not commercial ships. Over 90 percent of commercial ships are build in yards other than these Navy yards. The bill does not affect military ships. The big Navy yards are hopeful for big new subsidies for commercial ships. That is very enlightening. Jobs would be created for commercial yards to build more, but they cannot compete with the much larger subsidies from foreigners.

Foreign subsidies are more than $4 billion. U.S. subsidies are $50 million. This is the reason for the agreement to eliminate these subsidies, so we can create more American jobs, so our shipbuilders are more active and can compete more. The agreement would eliminate these unfair subsidies that we cannot compete with.

This is a good bill, this is an amendment that would violate the fair trade agreement.

Significant growth is projected for the highly competitive international shipbuilding market, while domestic military and commercial markets are expected to be small. The commercial shipbuilding market is projected to be $265 billion for the period 1992 to 2001.

American shipbuilders are being squeezed out of this market by heavy foreign government shipyard subsidiaries. This agreement eliminates those subsidies and allows the American builders to compete on a level playing field with the major shipbuilding countries of the world.

We are in the midst of tight fiscal pressures to reduce our own spending, we cannot compete with major industrialized nations in a race to subsidize our shipping industries.

The United States must take the lead in implementing this agreement. It will signal our commitment to freer markets to the international community. The strength of U.S. industry is its ability to compete. This agreement will give American shipbuilders the opportunity to expand operations and increase their production.

International leadership requires courage and vision. Let's demonstrate to the world that we are looking forward and embracing the principles that have made America great.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding to me, and I want to associate myself with his remarks and rise in opposition to the amendment and in support of the bill.

Let me say sadly and somewhat soberly that we have been here before. In the early 1980's, this country decided that it could no longer afford to and no longer wished to try to compete with the subsidies of foreign nations for the construction of vessels. We withdrew and, ironically, this agreement before us, the ratification of it, is a result, ultimately, of a suit brought under our own trade laws by our own shipbuilding industry, which concluded they could not possibly win a battle of competition with the subsidies of foreign nations.

We cannot afford to go back there. I think in the long run our best bet is a world without these subsidies and, therefore, I complement the gentleman and join him in his remarks.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

The gentleman from Virginia [Mr. BATEMAN] stated earlier that because the USTR is reopening the agreement to add 6 months to the delivery date, that it can renegotiate to permit us to retain title XI. And I want to explain to colleagues that is not correct. It will be impossible to reopen the agreement, as Mr. BATEMAN suggests.

The agreement currently provides that no subsidies may be awarded under the agreement after the effective date of the agreement, July 15. Subsidies may be granted before that point as long as the vessel is constructed by December 31, 1998. The signatories had originally agreed that the agreement would take effect on February 1, 1996. That date had to be delayed 6 months because the United States was not

ready to implement. However, the December 31, 1998, delivery date remained in place.

The administration is merely seeking a change applicable to all countries that would extend the delivery date 6 months to match the delayed starting date. The administration is not renegotiating the agreement. This change can be made merely through an understanding.

Our trading partners appear to be willing to discuss this limited change that applies to all countries equally. However, our trading partners have told us that they will not renegotiate the agreement under the terms set forth in the Bateman amendment because it would destroy the balance in the agreement and give the United States an undue advantage.

Mr. Chairman, I reserve the balance of my time.

Mr. BATEMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding me this time. I want to make a couple of closing remarks, first to my friend, the gentleman from Illinois [Mr. CRANE], a dear friend and one of the real leaders in this Congress with respect to trade. I know that the President's, the Clinton administration's appointees in the Pentagon have said there is no threat to national security. They also told us the other day and repeated in a statement there is no threat to this country in terms of incoming ballistic missiles. Both of us disagree with the second statement that they made, and I think we should both disagree with the first statement they have made.

Mr. Chairman, I want to remind my colleagues that all of the nations which are signatories to this agreement, all the major nations that are asking us to give up our national shipbuilding program, are nations that in this century have been saved militarily or protected militarily by America's national shipbuilding program. They will wait for us to work this agreement and make it right before they sign it.

Second, my colleagues, this is a sovereignty issue. We are doing the same thing we did in the World Trade Organization, where we are giving up the right to a foreign judge to decide what is a military program. And I would just remind Members that the latest World Trade Organization ruling under WTO, in which foreign judges said Brazil and Venezuela can send dirty gas into the United States and, in the absence of that, retaliate against Americans, because they said that our environmental laws were in conflict with the World Trade Organization's ideas of what those laws should be. We will see exactly the same thing here because these foreign tribunals reserve to themselves the definition of what is an American military shipbuilding program.

This is a sovereignty issue. Every single conservative should vote against the bill and for the Bateman amendment because it fixes some of those sovereignty problems on that basis. This is also predominantly a national security issue. I would hope that when national security goes head to head with economic considerations, national security with respect to maritime power should predominate. Please vote for the Bateman amendment.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

On the question of whether the agreement unfairly disadvantages the United States, let me reassure colleagues that other countries are not permitted to transition, as the gentleman from California [Mr. DELLUMS] had earlier suggested. The agreement does provide for some existing shipbuilding restructuring programs to be phased out in Spain, Portugal, and Belgium; however, these programs are primarily for the express purpose of reducing capacity in the respective shipbuilding industries of these nations, not for expanding the industry or supporting specific ship construction activities.

The precise terms of these programs, the amounts of funding, the purpose and deadlines for completion of these programs are spelled out in the agreement. The downsizing of European shipbuilding capacity is in the best interest of this Nation and the United States shipbuilding industry and should be encouraged. The special provisions result in an advantage, not a disadvantage to United States shipbuilders that wish to compete in the world shipbuilding marketplace.

No other countries have received special deals. Without the OECD agreement there would be no way to monitor or control these programs. They could continue indefinitely at any level of funding for whatever purpose they chose. The Bateman amendment would not provide us with transition; it would completely and unequivocally kill the agreement and all we have achieved.

Mr. Chairman, I reserve the balance of my time.

Mr. DELLUMS. Mr. Chairman, may I inquire as to the remaining amount of time on either side?

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] has 1½ minutes remaining; the gentleman from Virginia [Mr. BATEMAN] has 2 minutes remaining; and the gentleman from Illinois [Mr. CRANE] has 14½ minutes remaining.

Mr. DELLUMS. Mr. Chairman, I yield the balance of my time, 1½ minutes, to my distinguished colleague, the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time and I rise in strong support of the Bateman amendment and want to talk a little bit with the membership about why the agreement without this amendment is so flawed.

The agreement essentially will not end foreign subsidy and dumping practices, it will, however, kill the recent rebirth of commercial shipbuilding in our country. It will eliminate thousands of highly skilled jobs in our shipyards and in the thousands of industries throughout 46 States which supply our shipyards.

While our Trade Representative was at the negotiating table, it is important to point out that South Korea announced a $750 million bailout of its Daewoo Shipyard, which has been dumping ships on the world's market; Germany granted a $4 billion shipyard modernization subsidy to its shipyards, monies which are still being disbursed.

Our negotiators agreed to grandfather these special subsidies, and though our trade negotiator maintains that restructuring is supposed to be tied to closure of facilities and associated worker restraining, that is not how foreign governments see it. In fact, Spain is spending $723 million to modernize all of its existing facilities with no closures planned.

Further, the overall agreement fails to discipline the ship dumping practices of Japan and South Korea, and even though China has just begun to target shipbuilding as a means to develop its manufacturing industries, China is not a signatory to this agreement, nor is Poland, nor is Russia.

So what did America get out of this deal? Nothing. What did American shipbuilders get out of this deal? Nothing. And what did American workers get out of this deal? Nothing. In fact, our negotiators agreed to immediately gut the modest title XI ship loan program that is included in the Bateman amendment. So without the Bateman amendment we will kiss more U.S. shipyard jobs goodbye.

Mr. Chairman, I urge my colleagues to support the Bateman amendment and, without its inclusion, to oppose the bill.

Mr. BATEMAN. Mr. Chairman, I yield myself the remainder of my time, and say in closing the debate on behalf of the Committee on National Security that it is passing strange to have heard my amendment referred to as reasonable on its face and modest, and at the same time be told that we are going to unravel an agreement and that we are violating an agreement.

Mr. Chairman, we will not be violating an agreement. What we are contemplating is essentially a proposed agreement until and unless this Congress, in the exercise of its sovereign right for the people of the United States, determines that this is an agreement that should be implemented.

My amendment, contrary to some who would have me taking a position of total opposition to any agreement, is a midpoint. It simply says there are flaws in this proposed agreement which had been identified, and, in the interest and protection of American shipbuilding because of its importance to American national security, need to be modified.

If the other nations who purport to be in agreement on this agreement are

unwilling to accept these modest transition provisions, it speaks volumes to me as to whether or not they were seriously interested in ending shipbuilding subsidies. I am. We should be.

This is not about doing that. This is about modest, reasonable transition provisions in protection of the core American shipbuilding capability, which is absolutely essential to our national security. And it is those shipyards and the workers in those shipyards and the merchant mariners who man American ships, and because of the importance of that merchant marine to the United States, that ask that Members vote for the Bateman amendment.

Mr. CRANE. Mr. Chairman, I yield the remainder of my time to the gentleman from Florida, SAM GIBBONS, our distinguished ranking minority member for closing remarks, and I want to pay tribute to him again as the man who served for so long as chairman of the trade subcommittee on which I served in my ranking minority position. We have worked collegially for years together and I pay tribute to this great man from Florida.

□ 1245

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from Illinois [Mr. CRANE] and others of my colleagues who have recognized my service here, and I want to say to them I close this debate with certainly no personal rancor toward them or to the cause that they advocate.

I am here to give the best of my knowledge to the Members of this House, and the best of my judgment about the outcomes of actions we may take, what will follow.

Mr. Chairman, over the years, ever since World War II, the United States has been backing out of the subsidy in shipbuilding. Through the 1950's and the 1960's we cut back on our appropriations to commercial shipbuilding subsidies. Through the 1970's we did the same thing, and finally in the 1980's, under a procedure here on the budget reconciliation bill, the minority, together with some Members of the majority, got control of the situation through the Gramm-Latta substitute and actually abolished all the shipbuilding subsidies they could find. So since the 1980's the United States has had absolutely no shipbuilding subsidies of any consequence.

Now, as I sat here attentively listening to this debate today, I had been hoping that I would find something that I had not heard before that perhaps I could respond to or answer a question about.

Now, I know that negotiations are a tedious process. I participated in the launching of these negotiations many, many years ago. The negotiations have actually gone on for more than 5 years. Prior to that, I met with all of the shipbuilding industry in the United States. They all, because of my responsibilities, came by to see me. I sat down with them all in my office over here in the Rayburn building and we agreed to launch these negotiations.

Now, as I hear these negotiations discussed, I would have to believe that they were not even a party to the negotiations, but they sent representatives to these negotiations that sat there with our negotiators and participated in all of these negotiations. Nobody was surprised about anything that was brought up. They would come back from these negotiations and come to see me and we would discuss these points.

Mr. Chairman, I started unilateral U.S. action against these countries because at first they would not even negotiate with us on this. They would just come to the sessions and say no. Finally, they got concerned enough about the actions of Congress here to come to the negotiations and really truthfully begin the negotiations, and 5 tortuous years of negotiations took place.

During those 5 tortuous years, everybody in the shipbuilding industry had somebody around the negotiating table there to kibitz and to add their suggestions as to what should be done. Concessions were made back and forth. Deals were entered into and agreed to. Finally, all of these mutual concessions and negotiations came to an agreement.

I celebrated, as did the shipbuilding industry at that time, because we thought we had a good agreement and I believe we still do have a good agreement.

One thing was overlooked. The Committee on National Security found and rejuvenated an old, old subsidy that goes back to 1936; one that had been overlooked in the 1981 abolishment of all subsidies. Perfectly all right.

Under the standstill agreement that is a part of the general agreement we are talking about here today, all countries agreed to stand still and not to go out and create new additional subsidies, and this little subsidy for $50 million that the Committee on National Security found qualified as one of those that could still be used. So, Mr. Chairman, some of our yards got a little jump out of that.

But tomorrow, Mr. Chairman, June 15, is the deadline for us to take affirmative action on this agreement. If we do not take affirmative action in this House today to ratify this agreement, all of the other nations that have agreed to this agreement will back out of it. They have not just told us that; they put it in writing, and it is in yesterday's CONGRESSIONAL RECORD there for my colleagues' examination.

Now, I know my friend, the gentleman from California [Mr. DELLUMS], believes that they will come back to the negotiating table. Well, I do not have the optimism that he has. Perhaps my lack of optimism is caused by having followed this agreement so closely over the years. All of these other nations are having trouble with their own shipbuilders, and the only reason they are standing still is because their word is good. But once we back out of the agreement, I do not see them coming back to the negotiating table to do what the gentleman from Virginia [Mr. BATEMAN] wants to do here.

Mr. Chairman, let me say this. This agreement was negotiated with everybody participating. Every American shipbuilder in the United States had an opportunity and most of them did participate in this agreement. It was an agreement that had concessions on all sides. On our side, the Jones Act people put up a good case, and every other nation on Earth that participated in this agreement got rid of their so-called Jones Act subsidies or protection except the United States. We got a concession there. But a resulting concession had to come in, and that is that the Jones Act people, acting under the protection that they get from the Jones Act, would not take the economic advantage that they got from their Jones Act protection and go out and get a double dip under the international marketplace agreement that was negotiated here. That is all that is involved here.

Now, the Department of Defense has signed off on this agreement. They followed the negotiation, both Republican and Democratic administrations. They have been a part of it. They know the consequences of it, and they are not concerned about it at all. The letter from the Secretary of Defense is also in the record.

So, Mr. Chairman, this is not a national security issue; it is an economic issue for America. We stand on the verge of entering into the international shipbuilding market for the first time since 1981. If we do not take this advantage, we are going to lose a lot of jobs that we already have in the United States, and we are not going to take the opportunity to get the new jobs that are coming about because of the rapid obsolescence of the world's merchant marine fleet. American shipyards are competitive. They can compete against the best shipyards around the world. Our labor costs are low. Let me repeat that: Our labor costs are low and our technology is high.

What has defeated us all these years is that all of the other nations on Earth continued their subsidies, continued their unfair pricing, and we sat with our hands tied. Do not let us go down today with our hands continually tied behind us. Give our yards an opportunity to get out and compete.

Shipbuilders from all over the United States have come and talked to me about, ''Mr. GIBBONS, if we could only get there subsidies ended, we can compete. But if we cannot end these subsidies right now, we are going to have to go on welfare.''

Now, that is not fair. There are many conflicting interests in all of this in the United States, and I respect everyone's interest in this. I accuse no one

of any unfair, undemocratic practices. But the problem is we have got a once-in-a-lifetime opportunity to get rid of these pernicious worldwide subsidies. If we do not do it now, the RECORD already reflects that our trading partners will back out. We cannot afford to do that.

It is really bigger than this shipbuilding issue. Ever since I have had a responsibility for monitoring our international trade negotiations, the rest of the world is structured politically different than we. No one has a Congress or a lawmaking body that is as powerful and as intrusive in the process as the Congress of the United States, and all of the rest of the world understands that and knows that.

That is the reason why they will not deal with us on any kind of international agreement unless we have what we call fast track. A horrible misnomer, but I think all of us know what it is. They accuse us time and time again, in all international negotiations, of coming back to the House floor and the Senate floor and unraveling all of the mutual concessions that were made in the agreement.

That is really what we are doing here today. I know we do not recognize it but they recognize it. They are resisting that, not only because of shipbuilding but because of all of the other negotiations that they have carried on with us and will carry on with us over the period of time.

So this is a big issue. It is a big issue about how we organize a peaceful world, a world that lives under law, a world that lives under law openly developed and put forward and negotiated and agreed to by the different bodies of this country.

Certainly the Committee on National Security has a role in all of this. I guess I regret as I stand here now that they probably were not involved in it enough during the negotiating process. I am sorry I did not call it to their attention. But I though that all of the shipbuilders in this country, particularly the large Navy yards that are so dependent on national security contracts, were keeping in touch with their other Members of Congress. I can tell my colleagues that I spent a lot of other time with them, time that I could have better spent on Florida concerns rather than on national concerns.

So believe me, we have got an opportunity here today. We have got an opportunity to get a good agreement. This is the best agreement that American negotiators, including the private sector in all of these negotiations, could work out in 5 tortuous years. Four sets of negotiators, Republican and Democrat. We wore out in these negotiations. We cannot go back and undo all of that again because of these rather last-minute concessions.

At best, if the Bateman amendment succeeds, it will last until Monday. It will last until Monday, and then it is gone, because it is only protected by the standstill agreement that is in this basic agreement. The other nations have told us, ''If you are not going to agree to it, we are not going to stand still,'' and they will meet and match on Monday the Bateman amendment subsidy, and there will be no more advantage, as temporary as it is, for the United States under the Bateman amendment. That is what all of this is about.

This is perhaps my swan song on trade. I may have a few words on some other things around here before my term expires, but I want to thank the Members of Congress for listening to me, and I want to thank you also for this opportunity to participate.

Mr. CRANE. Mr. Chairman, I yield 30 seconds to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I just want to echo what the gentleman from Florida [Mr. GIBBONS] was talking about, and to tell the gentleman that the day has already arrived.

Mr. Chairman, just yesterday in my district, a press release came from the Alabama shipyard, and it is based upon whether or not this agreement is enacted, where they signed a contract for five Russian tankers to be built in the State of Alabama. We are talking about 600 new jobs.

Mr. Chairman, I chair or have chaired for the past 8 years, the revitalization of the shipbuilding industry in this country. This is the biggest thing that we have going for us. We are now here. We already have achieved contracts, created jobs. If we turn this back, then we are going to lose American jobs.

So, Mr. Chairman, I would encourage my colleagues to vote against the Bateman amendment and encourage them to support the bill once the Bateman amendment is rejected.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 278, noes 149, not voting 7, as follows:

[Roll No. 237]

AYES—278

Abercrombie
Ackerman
Andrews
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Bartlett
Bateman
Becerra
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Burr
Burton
Buyer
Calvert
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Coyne
Crapo
Cummings
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Duncan
Durbin
Edwards
Ehrlich
Emerson
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Funderburk
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green (TX)
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hansen
Harman
Hayes
Hayworth
Hefner
Hilleary
Hinchey
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
LaHood
Lantos
LaTourette
Lazio
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lofgren
Longley
Lowey
Lucas
Maloney
Manton
Markey
Martinez
Martini
Mascara
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Neal
Neumann
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Poshard
Quillen
Rahall
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stark
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—149

Allard
Archer
Armey
Bachus
Baker (CA)
Barrett (NE)
Barton
Bass
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Blumenauer
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bunn
Bunning
Callahan
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chapman
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cox
Cramer
Crane
Cremeans
Cubin
de la Garza
DeLay
Deutsch
Dicks
Dreier
Dunn
Ehlers
English
Ensign
Everett
Fawell
Foley
Fowler
Frelinghuysen
Frisa

Ganske
Gibbons
Gilchrest
Goss
Gutknecht
Hall (TX)
Hamilton
Hancock
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Heineman
Herger
Hilliard
Hobson
Hoekstra
Hoyer
Istook
Jacobs
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Kasich
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
Laughlin
Leach
Levin
Lewis (KY)
Lightfoot
Linder
LoBiondo
Luther
Manzullo
Matsui
McCarthy
McCollum
McCrery
McDermott
Meyers
Miller (FL)
Minge
Myrick
Nethercutt
Nussle
Orton
Parker
Paxon
Peterson (FL)
Petri
Portman
Pryce
Quinn
Radanovich
Ramstad
Rangel
Richardson
Rohrabacher
Roth
Royce
Salmon
Sanford
Sawyer
Schroeder
Sensenbrenner
Shadegg
Shaw
Shays
Skaggs
Smith (TX)
Smith (WA)
Stearns
Stenholm
Studds
Taylor (NC)
Thomas
Thurman
Walker
Waxman
White
Whitfield
Zeliff
Zimmer

NOT VOTING—7

Gillmor
Greene (UT)
Houghton
Lincoln
McDade
Miller (CA)
Oxley

☐ 1321

Messrs. KIM, KNOLLENBERG, FOLEY, MCCOLLUM, ZELIFF, SHADEGG, CANADY of Florida, and HOYER changed their vote from ''aye'' to ''no.''

Messrs. GILMAN, EWING, WELLER, Mrs. MEEK of Florida, and Mr. BARRETT of Wisconsin changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed the chair, Mr. GUTKNECHT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2754), to approve and implement the OECD Shipbuilding Trade Agreement, pursuant to House Resolution 448, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

Is a separate vote demanded on the amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the Committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DAVIS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 325, noes 100, not voting 9, as follows:

[Roll No. 238]

AYES—325

Ackerman
Allard
Andrews
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Bonior
Bono
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Burr
Calvert
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (MI)
Condit
Conyers
Crane
Cremeans
Cummings
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dickey
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Durbin
Ehlers
Ehrlich
Emerson
Engel
Ensign
Eshoo
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Greene (UT)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastings (FL)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hinchey
Hoekstra
Hoke
Horn
Hostettler
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Ney
Norwood
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Pryce
Quillen
Quinn
Radanovich
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Roth
Roukema
Roybal-Allard
Sabo
Sanders
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Torkildsen
Torres
Towns
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wicker
Williams
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff

NOES—100

Abercrombie
Archer
Armey
Bachus
Baker (CA)
Barr
Barton
Bevill
Boehner
Bonilla
Browder
Bunning
Burton
Callahan
Camp
Chenoweth
Chrysler
Collins (GA)
Collins (IL)
Combest
Cooley
Costello
Cox
Coyne
Cramer
Crapo
Cubin
de la Garza
DeLay
Diaz-Balart
Dicks
Doolittle
Dornan
Dunn
English
Evans
Everett
Foley
Fowler
Graham
Gunderson
Hall (TX)
Hastert
Hastings (WA)
Hilleary
Hilliard
Hobson
Holden
Hunter
Jacobs
Johnson (CT)
Johnson, Sam
Kingston
Klink
Klug
Kolbe
Lantos
Laughlin
Lewis (KY)
LoBiondo
Longley
McCrery
McDermott
Mollohan
Montgomery
Nethercutt
Neumann
Nussle
Oberstar
Obey
Pombo
Portman
Poshard
Rahall
Ramstad
Rohrabacher
Ros-Lehtinen
Rose
Royce
Rush
Salmon
Sanford
Schroeder
Shadegg
Smith (NJ)
Smith (WA)
Stearns
Stockman
Stump
Tanner
Taylor (MS)
Thompson
Tiahrt
Torricelli
Traficant
White
Whitfield
Wise
Yates
Zimmer

NOT VOTING—9

Buyer
Edwards
Gillmor
Green (TX)
Houghton
Lincoln
McDade
Meyers
Oxley

☐ 1342

Mr. MCNULTY changed his vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall vote No. 238 earlier today I was unavoidably detained. Had I been present, I would have voted ''aye.''