

I would also say that with the objection of the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Michigan (Mr. DINGELL), the bill passed pretty much as is 336 to 72 the last time around.

With that I urge adoption of the bill.
Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the Senate bill, S. 852, as amended.

The question was taken.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

INTERNATIONAL ANTI-BRIBERY AND FAIR COMPETITION ACT OF 1998

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4353) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4353

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 "International Anti-Bribery and Fair Competition Act of 1998".

SEC. 2. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING ISSUERS.

(a) PROHIBITED CONDUCT.—Section 30A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(a)) is amended—

(1) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or";

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or"; and

(3) by amending subparagraph (A) of paragraph (3) to read as follows:

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, po-

litical party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or".

(b) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Paragraph (1) of section 30A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(f)(1)) is amended to read as follows:

"(1)(A) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

"(B) For purposes of subparagraph (A), the term 'public international organization' means—

"(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

"(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.".

(c) ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE THE UNITED STATES.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended—

(1) by adding at the end the following:

"(g) ALTERNATIVE JURISDICTION.—

"(1) It shall also be unlawful for any issuer organized under the laws of the United States, or a State, territory, possession, or commonwealth of the United States or a political subdivision thereof and which has a class of securities registered pursuant to section 12 of this title or which is required to file reports under section 15(d) of this title, or for any United States person that is an officer, director, employee, or agent of such issuer or a stockholder thereof acting on behalf of such issuer, to corruptly do any act outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any of the persons or entities set forth in paragraphs (1), (2), and (3) of subsection (a) of this section for the purposes set forth therein, irrespective of whether such issuer or such officer, director, employee, agent, or stockholder makes use of the mails or any means or instrumentality of interstate commerce in furtherance of such offer, gift, payment, promise, or authorization.

"(2) As used in this subsection, the term 'United States person' means a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.".

(2) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (g)"; and

(3) in subsection (c), by striking "subsection (a)" and inserting "subsection (a) or (g)".

(d) PENALTIES.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(c)) is amended—

(1) in paragraph (1)(A), by striking "section 30A(a)" and inserting "subsection (a) or (g) of section 30A";

(2) in paragraph (1)(B), by striking "section 30A(a)" and inserting "subsection (a) or (g) of section 30A"; and

(3) by amending paragraph (2) to read as follows:

"(2)(A) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who willfully violates subsection (a) or (g) of section 30A of this title shall be fined not more than \$100,000, or imprisoned not more than 5 years, or both.

"(B) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates subsection (a) or (g) of section 30A of this title shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Commission.".

SEC. 3. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING DOMESTIC CONCERNS.

(a) PROHIBITED CONDUCT.—Section 104(a) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)) is amended—

(1) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or";

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or"; and

(3) by amending subparagraph (A) of paragraph (3) to read as follows:

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or".

(b) PENALTIES.—Section 104(g) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(g)) is amended—

(1) by amending subsection (g)(1) to read as follows:

"(g)(1)(A) PENALTIES.—Any domestic concern that is not a natural person and that violates subsection (a) or (i) of this section shall be fined not more than \$2,000,000.

"(B) Any domestic concern that is not a natural person and that violates subsection (a) or (i) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General."; and

(2) by amending paragraph (2) to read as follows:

"(2)(A) Any natural person that is an officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) or (i) of this section shall be fined not more than \$100,000 or imprisoned not more than 5 years, or both.

"(B) Any natural person that is an officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who violates subsection (a) or (i) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.".

(c) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Paragraph (2) of section 104(h) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)) is amended to read as follows:

"(2)(A) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

"(B) For purposes of subparagraph (A), the term 'public international organization' means—

"(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

"(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register."

(d) **ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE THE UNITED STATES.**—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is further amended—

(1) by adding at the end the following:

"(i) **ALTERNATIVE JURISDICTION.**—

"(1) It shall also be unlawful for any United States person to corruptly do any act outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any of the persons or entities set forth in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, irrespective of whether such United States person makes use of the mails or any means or instrumentality of interstate commerce in furtherance of such offer, gift, payment, promise, or authorization.

"(2) As used in this subsection, the term 'United States person' means a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof."

(2) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (i)";

(3) in subsection (c), by striking "subsection (a)" and inserting "subsection (a) or (i)"; and

(4) in subsection (d)(1), by striking "subsection (a)" and inserting "subsection (a) or (i)".

(e) **TECHNICAL AMENDMENT.**—Section 104(h)(4)(A) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)(4)(A)) is amended by striking "For purposes of paragraph (1), the" and inserting "The".

SEC. 4. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING OTHER PERSONS.

Title I of the Foreign Corrupt Practices Act of 1977 is amended by inserting after section 104 (15 U.S.C. 78dd-2) the following new section:

"SEC. 104A. PROHIBITED FOREIGN TRADE PRACTICES BY PERSONS OTHER THAN ISSUERS OR DOMESTIC CONCERNS.

"(a) **PROHIBITION.**—It shall be unlawful for any person other than an issuer that is subject to section 30A of the Securities Exchange Act of 1934 or a domestic concern (as defined in section 104 of this Act), or for any officer, director, employee, or agent of such person or any stockholder thereof acting on behalf of such person, while in the territory of the United States, corruptly to make use of the mails or any means or instrumental-

ity of interstate commerce or to do any other act in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person.

"(b) **EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.**—Subsection (a) of this section shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) **AFFIRMATIVE DEFENSES.**—It shall be an affirmative defense to actions under subsection (a) of this section that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party

official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) **INJUNCTIVE RELIEF.**—

"(1) When it appears to the Attorney General that any person to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond.

"(2) For the purpose of any civil investigation which, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(4) All process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(e) **PENALTIES.**—

"(1)(A) Any juridical person that violates subsection (a) of this section shall be fined not more than \$2,000,000.

"(B) Any juridical person that violates subsection (a) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.

"(2)(A) Any natural person who willfully violates subsection (a) of this section shall be fined not more than \$100,000 or imprisoned not more than 5 years, or both.

"(B) Any natural person who violates subsection (a) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a person, such fine may not be paid, directly or indirectly, by such person.

"(f) **DEFINITIONS.**—For purposes of this section:

"(1) The term 'person', when referring to an offender, means any natural person other

than a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the law of a foreign nation or a political subdivision thereof.

“(2)(A) The term ‘foreign official’ means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

“(B) For purposes of subparagraph (A), the term ‘public international organization’ means—

“(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

“(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.

“(3)(A) A person’s state of mind is knowing, with respect to conduct, a circumstance or a result if—

“(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

“(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

“(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

“(4)(A) The term ‘routine governmental action’ means only an action which is ordinarily and commonly performed by a foreign official in—

“(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

“(ii) processing governmental papers, such as visas and work orders;

“(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

“(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

“(v) actions of a similar nature.

“(B) The term ‘routine governmental action’ does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

“(5) The term ‘interstate commerce’ means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

“(A) a telephone or other interstate means of communication, or

“(B) any other interstate instrumentality.”

SEC. 5. TREATMENT OF INTERNATIONAL ORGANIZATIONS PROVIDING COMMERCIAL COMMUNICATIONS SERVICES.

(a) DEFINITION.—For purposes of this section:

(1) INTERNATIONAL ORGANIZATION PROVIDING COMMERCIAL COMMUNICATIONS SERVICES.—The term “international organization providing commercial communications services” means—

(A) the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization; and

(B) the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Satellite Organization.

(2) PRO-COMPETITIVE PRIVATIZATION.—The term “pro-competitive privatization” means a privatization that the President determines to be consistent with the United States policy of obtaining full and open competition to such organizations (or their successors), and nondiscriminatory market access, in the provision of satellite services.

(b) TREATMENT AS PUBLIC INTERNATIONAL ORGANIZATIONS.—

(1) TREATMENT.—An international organization providing commercial communications services shall be treated as a public international organization for purposes of section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) until such time as the President certifies to the Committee on Commerce of the House of Representatives and the Committees on Banking, Housing and Urban Affairs and Commerce, Science, and Transportation that such international organization providing commercial communications services has achieved a pro-competitive privatization.

(2) LIMITATION ON EFFECT OF TREATMENT.—The requirement for a certification under paragraph (1), and any certification made under such paragraph, shall not be construed to affect the administration by the Federal Communications Commission of the Communications Act of 1934 in authorizing the provision of services to, from, or within the United States over space segment of the international satellite organizations, or the privatized affiliates or successors thereof.

(c) EXTENSION OF LEGAL PROCESS.—

(1) IN GENERAL.—Except as specifically and expressly required by mandatory obligations in international agreements to which the United States is a party, an international organization providing commercial communications services, its officials and employees, and its records shall not be accorded immunity from suit or legal process for any act or omission taken in connection with such organization’s capacity as a provider, directly or indirectly, of commercial telecommunications services to, from, or within the United States.

(2) NO EFFECT ON PERSONAL LIABILITY.—Paragraph (1) shall not affect any immunity from personal liability of any individual who is an official or employee of an international organization providing commercial communications services.

(d) ELIMINATION OR LIMITATION OF EXCEPTIONS.—The President and the Federal Communications Commission shall, in a manner that is consistent with specific and express requirements in mandatory obligations in international agreements to which the United States is a party—

(1) expeditiously take all actions necessary to eliminate or to limit substantially any privileges or immunities accorded to an international organization providing commercial communications services, its offi-

cial, its employees, or its records from suit or legal process for any act or omission taken in connection with such organization’s capacity as a provider, directly or indirectly, of commercial telecommunications services to, from, or within the United States, that are not eliminated by subsection (c);

(2) expeditiously take all appropriate actions necessary to eliminate or to reduce substantially all privileges and immunities not eliminated pursuant to paragraph (1); and

(3) report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on any remaining privileges and immunities of an international organization providing commercial communications services within 90 days of the effective date of this act and semiannually thereafter.

(e) PRESERVATION OF LAW ENFORCEMENT AND INTELLIGENCE FUNCTIONS.—Nothing in subsection (c) or (d) of this section shall affect any immunity from suit or legal process of an international organization providing commercial communications services, or the privatized affiliates or successors thereof, for acts or omissions—

(1) under chapters 119, 121, 206, or 601 of title 18, United States Code, the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), section 514 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 884), or Rules 104, 501, or 608 of the Federal Rules of Evidence;

(2) under similar State laws providing protection to service providers cooperating with law enforcement agencies pursuant to State electronic surveillance or evidence laws, rules, regulations, or procedures; or

(3) pursuant to a court order.

(f) RULES OF CONSTRUCTION.—

(1) NEGOTIATIONS.—Nothing in this section shall affect the President’s existing constitutional authority regarding the time, scope, and objectives of international negotiations.

(2) PRIVATIZATION.—Nothing in this section shall be construed as legislative authorization for the privatization of INTELSAT or Inmarsat, nor to increase the President’s authority with respect to negotiations concerning such privatization.

SEC. 6. ENFORCEMENT AND MONITORING.

(a) REPORTS REQUIRED.—Not later than July 1 of 1999 and each of the 5 succeeding years, the Secretary of Commerce shall submit to the House of Representatives and the Senate a report that contains the following information with respect to implementation of the Convention:

(1) RATIFICATION.—A list of the countries that have ratified the Convention, the dates of ratification by such countries, and the entry into force for each such country.

(2) DOMESTIC LEGISLATION.—A description of domestic laws enacted by each party to the Convention that implement commitments under the Convention, and assessment of the compatibility of such laws with the Convention.

(3) ENFORCEMENT.—As assessment of the measures taken by each party to the Convention during the previous year to fulfill its obligations under the Convention and achieve its object and purpose including—

(A) an assessment of the enforcement of the domestic laws described in paragraph (2);

(B) an assessment of the efforts by each such party to promote public awareness of such domestic laws and the achievement of such object and purpose; and

(C) an assessment of the effectiveness, transparency, and viability of the monitoring process for the Convention, including its inclusion of input from the private sector and non-governmental organizations.

(4) **LAWS PROHIBITING TAX DEDUCTION OF BRIBES.**—An explanation of the domestic laws enacted by each party to the Convention that would prohibit the deduction of bribes in the computation of domestic taxes.

(5) **NEW SIGNATORIES.**—A description of efforts to expand international participation in the Convention by adding new signatories to the Convention and by assuring that all countries which are or become members of the Organization for Economic Cooperation and Development are also parties to the Convention.

(6) **SUBSEQUENT EFFORTS.**—An assessment of the status of efforts to strengthen the Convention by extending the prohibitions contained in the Convention to cover bribes to political parties, party officials, and candidates for political office.

(7) **ADVANTAGES.**—Advantages, in terms of immunities, market access, or otherwise, in the countries or regions served by the organizations described in section 5(a), the reason for such advantages, and an assessment of progress toward fulfilling the policy described in that section.

(8) **BRIBERY AND TRANSPARENCY.**—An assessment of anti-bribery programs and transparency with respect to each of the international organizations covered by this Act.

(9) **PRIVATE SECTOR REVIEW.**—A description of the steps taken to ensure full involvement of United States private sector participants and representatives of nongovernmental organizations in the monitoring and implementation of the Convention.

(10) **ADDITIONAL INFORMATION.**—In consultation with the private sector participants and representatives of nongovernmental organizations described in paragraph (9), a list of additional means for enlarging the scope of the Convention and otherwise increasing its effectiveness. Such additional means shall include, but not be limited to, improved recordkeeping provisions and the desirability of expanding the applicability of the Convention to additional individuals and organizations and the impact on United States business of section 30A of the Securities Exchange Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977.

(b) **DEFINITION.**—For purposes of this section, the term "Convention" means the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted on November 21, 1997, and signed on December 17, 1997, by the United States and 32 other nations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 4353, the International Anti-Bribery and Fair Competition Act of 1998. We have before us today an important piece of legislation that is good policy, good for business, good for workers all at the same time.

I would like to thank the gentleman from Ohio (Mr. OXLEY) in particular for cosponsoring this important legislation with me and for moving it through the committee last month by voice vote. This is another example of his leadership on international issues.

I would also like to thank the gentleman from Michigan (Mr. DINGELL) for his input on this legislation. His input has helped to make a good bill even better.

I would like to thank as well the ranking minority member on the subcommittee, the gentleman from New York (Mr. MANTON) for his cosponsorship and assistance in moving this bill forward and for his fine service on our committee.

Finally, I wish to thank the gentleman from Massachusetts (Mr. MARKEY), who was the first cosponsor joining the gentleman from Ohio (Mr. OXLEY) and myself in moving this bill forward.

Our legislation is designed to create a level playing field for Americans. This bill helps bring about a more equitable and transparent business environment while reducing both foreign bribery and unfair privileges and immunities.

The International Anti-Bribery and Fair Competition Act of 1998 contains the changes to our domestic laws necessary to implement the OECD convention on combating bribery of foreign public officials. The United States has one of the world's strictest anti-bribery laws called the Foreign Corrupt Practices Act, or FCPA. American business believes this law puts them at a disadvantage since most of our trading partners do not have similarly strong laws against bribery of foreign officials. Some of our competitors have even made bribery tax-deductible.

I believe contracts should go to the best competitor, not the biggest briber. Our workers and companies are the most competitive and productive in the world and thus have the most to gain from fair and open competition. Our bill seeks to help develop a fairer, more open business environment worldwide.

The convention has no binding mechanism to make other nations actually adopt their own anti-bribery laws in accordance with its requirements. To help address this potential problem, the gentleman from Ohio (Mr. OXLEY) and myself have added a reporting requirement to the legislation. The gentleman from Massachusetts (Mr. MARKEY) made some additions to this provision which enhanced its scope and depth, and for that I thank him very much. I would also like to thank the chairman of the Committee on International Relations, the gentleman from New York (Mr. Gilman), for his additions to this section.

Our bill will require the administration to report annually beginning on July 1 of next year on other countries' enforcement implementation measures. This will give us the information we need to determine whether other

nations are living up to their end of the agreement and will put pressure on them to do so.

The gentleman from Ohio (Mr. OXLEY) and myself also added a section which helps level the playing field with respect to the intergovernmental satellite organizations, INTELSAT and Inmarsat. Bribery of officials in these organizations should not escape from the coverage of the FCPA through an anticompetitive privatization. The beneficiaries will not only be competing private American satellite companies and their workers, but also consumers who will see the lower prices that increased competition brings.

I urge Members to support our bill, send it to the Senate with a big margin of support.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent to turn control over the balance of the time to the gentleman from Ohio (Mr. OXLEY), chairman of the subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4353, the International Anti-Bribery and Fair Competition Act of 1998. I want to begin by thanking the gentleman from Ohio (Mr. OXLEY) of the subcommittee who handled this bill magnificently along with the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY), who, in an evenhanded way, working with the gentleman from Michigan (Mr. DINGELL) and myself and the ranking member of the subcommittee, the gentleman from New York (Mr. MANTON) over the last several months has helped to craft, I think, a very important forward-looking piece of legislation, and I am very proud to have been a cosponsor with them on this bill.

Back in the 1970s there were a series of widely reported scandals and investigations by the Securities and Exchange Commission into bribes and other illicit payments to foreign officials and illegal domestic political contributions by American corporations. Hundreds of United States corporations were found to have made such payments to foreign government officials including more than 25 percent of our Fortune 500 companies. Clearly the widespread corrupt practices that were taking place during this period were fundamentally inconsistent with the principles of free and fair markets and, I believe, ultimately harmful to the interests of the United States because they damage the interests of shareholders of these United States companies.

In response to these practices, Congress enacted the Federal Corrupt Practices Act to establish an explicit bar against bribing foreign government officials and creating requirements for

accurate books and records and devising and maintaining a system of internal accounting controls. When Congress enacted this legislation, it was hoped that by taking the lead to curb bribery by our corporations, America would put pressure on other developed and developing industrialized nations to adopt similar laws inside their own countries.

□ 1600

Today, this Congress, pursuant to the leadership of the gentleman from Ohio (Mr. OXLEY) and the gentleman from Virginia (Mr. BLILEY) is taking up legislation which is the fruit of our earlier legislative efforts in the original Foreign Corrupt Practices Act and in the 1988 amendments to this Act to put pressure on foreign governments to adopt strong laws against bribing foreign government officials.

After many years of difficult negotiations, the United States succeeded last year in securing the agreement of 33 countries, including almost all of the OECD States and several other nations, to a Convention which is closely modeled after the Foreign Corrupt Practices Act.

In order to implement the terms of the Convention, H.R. 4353 strengthens U.S. law by extending its coverage to cover foreign persons and corporations, bribes paid to officials of international organizations, and clarifying that the law's prohibitions should be construed to cover any payments made to secure any improper advantage.

This is the right formula for the future of the world. We have to add more integrity to the global marketplace. Consumers and investors across the planet have to know that, wherever business is being done, it is being done by a set of rules. That is agreed by every single industrialized nation so that all are given full protection.

I want to congratulate again the gentleman from Ohio (Mr. OXLEY) and the gentleman from Virginia (Mr. BLILEY). They worked closely with the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. MANTON), and I. We are proud to be co-sponsors of this seminal piece of legislation.

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

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation, the International Anti-Bribery and Fair Competition Act of 1998.

Bribery distorts the free market system and provides unfair advantages. It does so at the expense of those unwilling or unable to use similar tactics. Those companies or governments that participate in bribery take away an opportunity from someone willing or required to play by the rules. But what happens when there are no rules or the existing laws are murky or poorly enforced? In such an environment, bribery is allowed to flourish.

The United States, our Anti-Bribery law is the Foreign Corrupt Practices Act, also known as the FCPA, one of the strongest anti-bribery laws worldwide. Unfortunately, many foreign nations do not have similar laws as we do in the United States or certainly enforce them. As a result, American companies and American workers suffer a significant competitive disadvantage. They are bound by the provisions of the FCPA while others are not. H.R. 4353 will help rectify this serious problem.

As a matter of fact, there has been evidence that American corporations lose upwards to \$30 billion per year against unfair competition where foreign countries, companies bribe the public officials and in many cases actually have those bribes deducted from their tax liability.

This implements the recently completed OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions. Concluded last December, this Convention will go a long way to raising the bar regarding anti-bribery legislation.

The first step that must be done to make the Convention a success is bring the Parties into compliance with the Convention. This bill makes the necessary changes to the FCPA to bring the U.S. into compliance. We will be the first country to do so. These changes are small, but they are significant and very important.

The administration has made a case that the U.S. must take a strong lead in implementing the Convention, and we do that today.

Moreover, H.R. 4353 contains strong reporting requirements which we added to the bill in order to help ensure other nations are implementing and enforcing their commitments under the Convention. For that, I thank my good friend, the gentleman from Massachusetts (Mr. MARKEY) for his vigilance and hard work for providing those reporting requirements. We plan to be vigilant to ensure the next steps, international compliance and enforcement, are completed.

This bill will also reduce and eliminate unfair privileges and immunities of the intergovernmental satellite organizations, INTELSAT and Inmarsat, and makes it quite clear that these organizations are covered under the anti-bribery Convention as well as the statute. Doing so will help bring us closer to the point where no satellite competitor is above the law.

It is clear that the American business groups support this bill. They want to compete on a level ground with their international counterparts. Furthermore, the bill has been enforced by the American business community, including the Business Roundtable, the Emergency Committee for American Trade, the National Association of Manufacturers, the National Foreign Trade Council, Transparency International, and the United States Council for International Business.

Let me say, Mr. Speaker, that without the hard work of the Commerce Department, Secretary Daley, we also would not be here today, and we want to thank them for their fine efforts.

The Senate has already passed a similar version of this bill. I am hopeful that the other body will quickly approve the improvements we made to the bill so we can quickly send this legislation to the President for his signature.

Let me finally take this opportunity to thank the gentleman from Virginia (Chairman BLILEY) for steering this important initiative forward. I, too, want to thank the gentleman from Michigan (Mr. DINGELL), the ranking minority member of the full committee, the gentleman from New York (Mr. MANTON), the ranking minority member on my subcommittee, who is retiring this year, and also of course our good friend the gentleman from Massachusetts (Mr. MARKEY) for his work in this effort.

During the committee process, we worked with interested parties, including the administration, to approve specific language of the bill. The bill H.R. 4353 passed in the Committee on Commerce with no opposition. The bill before us today has brought bipartisan support and deserves the support of the entire House.

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

Mr. MARKEY. Mr. Speaker, we have no other requests for time on this side of the aisle.

Mr. Speaker, I yield back the balance of our time.

Mr. OXLEY. Mr. Speaker, I know we have no further speakers on this side.

Mr. Speaker, we too, yield back the balance of our time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the bill, H.R. 4353, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2375) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2375

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 "International Anti-Bribery Act of 1998".

SEC. 2. AMENDMENTS RELATING TO ISSUERS OF SECURITIES.

(a) **PROHIBITED CONDUCT.**—Section 30A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official in his official capacity; "(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official; "(C) securing any improper advantage; or";

(2) in paragraph (2)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity; "(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(3) in paragraph (3)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate; "(C) securing any improper advantage; or";

(4) in paragraph (4)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate; "(C) securing any improper advantage; or";

(b) **OFFICIALS OF INTERNATIONAL ORGANIZATIONS.**—Section 30A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(f)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) The term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government, department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been so designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288)."; and

(2) in paragraph (3)(A)(v), by inserting before the period "to those referred to in clauses (i) through (iv)".

(c) **ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE OF THE UNITED STATES.**—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended—

(1) by redesignating subsection (f) as subsection (g);

(2) by inserting after subsection (e) the following:

"(f) **ALTERNATIVE JURISDICTION.**—

"(1) **IN GENERAL.**—It shall be unlawful for an issuer, or for any United States person that is an officer, director, employee, or agent of such issuer or any stockholder thereof, acting on behalf of that issuer, to corruptly do any act outside of the United States in furtherance of an offer, payment,

promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of any thing of value to any of the persons or entities referred to in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, whether or not that issuer (or that officer, director, employee, agent, or stockholder) makes use of the mails or any means or instrumentality of interstate commerce in furtherance of the offer, gift, payment, promise, or authorization.

"(2) **APPLICABILITY.**—This subsection applies only to an issuer that—

"(A) is organized under the laws of the United States, or a State, territory, possession, or commonwealth of the United States or a political subdivision thereof; and

"(B) has a class of securities registered pursuant to section 12 or that is required to file reports under section 15(d).

"(3) **UNITED STATES PERSON.**—In this subsection, the term 'United States person' means—

"(A) a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(4) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (f)"; and

(5) in subsection (c), by striking "subsection (a)" and inserting "subsections (a) and (f)".

(d) **PENALTIES.**—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(c)) is amended—

(1) by striking "section 30A(a) of this title" each place that term appears and inserting "subsection (a) or (f) of section 30A"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or director" and inserting "director, employee, or agent";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

SEC. 3. AMENDMENTS RELATING TO DOMESTIC CONCERNS.

(a) **PROHIBITED CONDUCT.**—Section 104(a) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official in his official capacity; "(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official; "(C) securing any improper advantage; or";

(2) in paragraph (2)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(3) in paragraph (3)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(4) in paragraph (4)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(5) in paragraph (5)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(6) in paragraph (6)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(7) in paragraph (7)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(8) in paragraph (8)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate; "(C) securing any improper advantage; or";

(9) in paragraph (9)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity; "(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate; "(C) securing any improper advantage; or";

(b) **OFFICIALS OF INTERNATIONAL ORGANIZATIONS.**—Section 104(h) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) The term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government, department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been so designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288)."; and

(2) in paragraph (4)(A)(v), by inserting before the period "to those referred to in clauses (i) through (iv)".

(c) **ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE OF THE UNITED STATES.**—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following:

"(h) **ALTERNATIVE JURISDICTION.**—

"(1) **IN GENERAL.**—It shall be unlawful for a United States person to corruptly do any act outside of the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of any thing of value to any of the persons or entities referred to in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, whether or not that United States person makes use of the mails or any means or instrumentality of interstate commerce in furtherance of the offer, gift, payment, promise, or authorization.

"(2) **DEFINITION.**—In this subsection, the term 'United States person' means—

"(A) a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(3) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (h)";

(4) in subsection (c), by striking "subsection (a)" and inserting "subsections (a) and (h)"; and

(5) in subsection (d), by striking "subsection (a) of this section" and inserting "subsection (a) or (h)".

(d) **PENALTIES.**—Section 104(g) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(g)) is amended—

(1) by striking "subsection (a)" each place that term appears and inserting "subsection (a) or (h)";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or director" and inserting "director, employee, or agent";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(2) in paragraph (1), by inserting "that is not a natural person" after "domestic concern" each place that term appears; and

(3) in paragraph (2)—

(A) by striking "Any officer" each place that term appears and inserting "Any natural person that is an officer";

(B) in subparagraph (A), by striking "or director" and inserting ", director, employee, or agent";

(C) by striking subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B).

(e) **TECHNICAL AMENDMENT.**—Section 104(i)(4)(A) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)(4)(A)), as redesignated by subsection (c) of this section, is amended by striking "For purposes of paragraph (1), the" and inserting "The".

SEC. 4. AMENDMENT RELATING TO OTHER PERSONS.

The Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd et seq.) is amended by inserting after section 104 the following new section:

"SEC. 104A. PROHIBITED FOREIGN TRADE PRACTICES BY PERSONS OTHER THAN ISSUERS OR DOMESTIC CONCERNS.

"(a) **PROHIBITED CONDUCT.**—It shall be unlawful for any covered person, or for any officer, director, employee, or agent of such covered person or any stockholder thereof, acting on behalf of such covered person, while in the territory of the United States, corruptly to make use of the mails or any means or instrumentality of interstate commerce or to do any other act in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A) influencing any act or decision of such foreign official in the official capacity of the foreign official;

"(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official;

"(C) securing any improper advantage; or

"(D) inducing such foreign official to use the influence of that official with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity;

"(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate;

"(C) securing any improper advantage; or

"(D) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity;

"(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate;

"(C) securing any improper advantage; or

"(D) inducing such foreign official, political party, party official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person.

"(b) **EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.**—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official, the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) **AFFIRMATIVE DEFENSES.**—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the country of the foreign official, political party, party official, or candidate; or

"(2) the payment, gift, offer, or promise of anything of value that was made was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate, and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) **INJUNCTIVE RELIEF.**—

"(1) **IN GENERAL.**—When it appears to the Attorney General that any covered person, or officer, director, employee, agent, or stockholder of a covered person, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a), the Attorney General may, in the discretion of the Attorney General, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond.

"(2) **CIVIL INVESTIGATIONS.**—For the purpose of any civil investigation that, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General, or a designee thereof, may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents that the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) **SUBPOENAS.**—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or in which such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General, or a designee thereof, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(4) **PROCESS.**—All process in any action referred to in this subsection may be served in the judicial district in which such person resides or may be found.

"(5) **RULES.**—The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement this subsection.

"(e) **PENALTIES.**—

"(1) **JURIDICAL PERSONS.**—Any covered person that is a juridical person that violates subsection (a)—

"(A) shall be fined not more than \$2,000,000; and

"(B) shall be subject to a civil penalty of not more than \$10,000, imposed in an action brought by the Attorney General.

"(2) **NATURAL PERSON.**—Any covered person who is a natural person and who—

"(A) willfully violates subsection (a) shall be fined not more than \$100,000, or imprisoned not more than 5 years, or both;

"(B) violates subsection (a) shall be subject to a civil penalty of not more than \$10,000, imposed in an action brought by the Attorney General.

"(3) **PAYMENT OF FINES.**—Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a covered person, such fine may not be paid, directly or indirectly, by that covered person.

"(f) **APPLICABILITY; OTHER LAWS.**—This section does not apply—

"(1) to any issuer of securities to which section 30A of the Securities Exchange Act of 1934 applies; or

"(2) to any domestic concern to which section 104 of this Act applies.

"(g) **DEFINITIONS.**—For purposes of this section—

"(1) the term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288);

"(2) the state of mind of a covered person is 'knowing' with respect to conduct, a circumstance, or a result if—

"(A) such covered person is aware that such covered person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(B) such covered person has a firm belief that such circumstance exists or that such result is substantially certain to occur;

"(3) if knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a covered person is aware of a high probability of the existence of such circumstance, unless the covered person actually believes that such circumstance does not exist;

"(4) the term 'covered person' means—

"(A) any natural person, other than a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the law of a foreign nation or a political subdivision thereof; and

"(5) the term 'routine governmental action'—

"(A) means only an action that is ordinarily and commonly performed by a foreign official—

"(i) in obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) in processing governmental papers, such as visas and work orders;

"(iii) in providing police protection, mail pickup and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) in providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) in actions of a similar nature to those referred to in clauses (i) through (iv); and

"(B) does not include any decision by a foreign official regarding whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decisionmaking process to encourage a decision to award new business to or to continue business with a particular party."

MOTION OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OXLEY moves to strike out all after the enacting clause of S. 2375 and insert in lieu thereof the text of H.R. 4353 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "To amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, (H.R. 4354) was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2375.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECOGNIZING SUICIDE AS A NATIONAL PROBLEM

Mr. BURR of North Carolina. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 212) recognizing suicide as a national problem, and for other purposes.

The Clerk read as follows:

H. RES. 212

Whereas suicide, the ninth leading cause of all deaths in the United States and the third such cause for young persons ages 15 through 24, claims over 31,000 lives annually, more than homicide;

Whereas suicide attempts, estimated to exceed 750,000 annually, adversely impact the lives of millions of family members;

Whereas suicide completions annually cause over 200,000 family members to grieve over and mourn a tragic suicide death for the first time, thus creating a population of over 4,000,000 such mourners in the United States;

Whereas the suicide completion rate per 100,000 persons has remained relatively stable over the past 40 years for the general population, and that rate has nearly tripled for young persons;

Whereas the suicide rate is rising among African American young men;

Whereas the suicide completion rate is highest for adults over 65;

Whereas the stigma associated with mental illness works against suicide prevention by keeping persons at risk of completing suicide from seeking lifesaving help;

Whereas the stigma associated with suicide deaths seriously inhibits surviving family members from regaining meaningful lives;

Whereas suicide deaths impose a huge unrecognized and unmeasured economic burden on the United States in terms of potential years of life lost, medical costs incurred, and work time lost by mourners;

Whereas suicide is a complex, multifaceted biological, sociological, psychological, and societal problem;

Whereas even though many suicides are currently preventable, there is still a need for the development of more effective suicide prevention programs;

Whereas suicide prevention opportunities continue to increase due to advances in clinical research, in mental disorder treatments, and in basic neuroscience, and due to the development of community-based initiatives that await evaluation; and

Whereas suicide prevention efforts should be encouraged to the maximum extent possible: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes suicide as a national problem and declares suicide prevention to be a national priority;

(2) acknowledges that no single suicide prevention program or effort will be appropriate for all populations or communities;

(3) encourages initiatives dedicated to—

(A) preventing suicide;

(B) responding to people at risk for suicide and people who have attempted suicide;

(C) promoting safe and effective treatment for persons at risk for suicidal behavior;

(D) supporting people who have lost someone to suicide; and

(E) developing an effective national strategy for the prevention of suicide; and

(4) encourages the development, and the promotion of accessibility and affordability, of mental health services, to enable all persons at risk for suicide to obtain the services, without fear of any stigma.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. BURR) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BURR).

GENERAL LEAVE

Mr. BURR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on H. Res. 212.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BURR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today to address the House resolution that deals with recognizing suicide as a national problem. When I am back in my district, I spend a tremendous amount of time in our country's schools. It is very interesting to watch the children in elementary and middle and high school these days, as they talk about the problems that they hear their parents talk about around the dinner table, not the ones that influence us on the nightly news but the ones that truly affect their quality of life.

I cannot imagine a school child without hope, but, believe me, in our world today there are many children that go to bed at night without that hope. This is a reason that I cosponsored House Resolution 212 introduced by Mr. LEWIS, my colleague from Georgia.

I received a letter recently from a student in my district, and I want to share part of that letter with my colleagues here today. Her letter said:

This letter concerns my opinion on teen suicide. There are more and more teen suicides, and it is becoming more and more popular. I think that teen suicide could be prevented. There could be classes that teens could take, not for a grade, but for them to build their self-esteem. If they do not feel badly about themselves, they will not have a reason to kill themselves.

Let me read my colleagues some statistics. According to the Centers for Disease Control, despite a decrease in the number of overall deaths of children age 5 through 14 from 1980 to 1998, death itself due to suicide in that age group doubled. While the overall number of deaths age 15 to 24 also dropped during the same period, suicide increased 3 percentage points.

Mr. Speaker, any death leaves a hole in a family. A suicide not only leaves a hole, but many painful unanswered questions. It is my hope that by passage of House Resolution 212, fewer families will have to live with the pain, and more individuals will receive the help they desperately need.

House Resolution 212 states that, one, Congress recognizes suicide as a national problem and wants suicide prevention to be a national priority. Two, no single suicide prevention program or effort will be appropriate for all populations and/or communities.

So while a self-esteem class may be what is right for children in the Fifth District of North Carolina, House Resolution 212 says that Congress needs to promote a variety of types of intervention and treatment programs so that there is one suitable for every community in this country and their needs.

Suicide prevention is an inexact science. It takes the efforts of all areas of society, teenagers, teachers, families, health care providers and, yes, even Congress.

House Resolution 212 specifically encourages initiatives to, one, prevent suicide; two, respond to people at risk