

with the corresponding implementation legislation that would update current U.S. copyright laws. We will have accomplished that task.

On October 8, 1998, the Senate unanimously passed the conference report to H.R. 2281, the Digital Millennium Copyright Act. This legislation will allow for the full implementation of the WIPO Treaties, by modifying current U.S. law in a few areas to meet the obligations imposed by the treaties and to ensure that liability questions are clearly defined in the treaties. U.S. copyright laws are strong and are vigorously enforced. However, these changes were needed to bring them up to date so U.S. law fell into compliance with the WIPO Treaties.

American creativity is the key to our competitiveness in this global economy. With so many industries in the United States protected by copyright—such as the computer software, music, recording, audio-visual and publishing industries—being among the most dynamic and fastest-growing sectors of the U.S. economy, it is important to protect these industries. In 1996, in a study commissioned by the International Intellectual Property Alliance, it was estimated that the U.S. creative industries contributed almost \$280 billion to the Gross Domestic Product, and accounted for some 3.5 million jobs, surpassing any single manufacturing sector by both measures. Most important, the estimated \$60 billion of foreign sales and exports by the U.S. copyright industries in 1996 made them the leading export sector of the entire economy. Consequently, the strength of legal protection in other countries for U.S. copyrighted materials is a key factor in promoting our global competitiveness.

The growth of digital networks such as the Internet offers an exciting opportunity for enhanced access by U.S. creators to world markets, but also presents a threat in the form of increased digital piracy of American works of authorship. The same technology that enables rapid and efficient authorized dissemination of U.S. copyrighted materials around the world also enables pirates to make and distribute perfect copies of these materials without authorization, more rapidly and efficiently than ever before, and with less risk of detection. Network-based digital piracy threatens to inflict losses on American creators that dwarf the estimated \$18–20 billion which our creative industries now lose to overseas piracy every year. For these reasons, I plan to hold a hearing next year in my subcommittee on International Economic Policy, Export and Trade Promotion on the effects of software piracy on the U.S. economy as well as the global economy.

Given the leading role of the U.S. creative industries in the global trade in computer software, music and recordings, and published test materials, it is clearly in the U.S. national interest for the WIPO Treaties to come into

force as soon as possible. Prompt U.S. ratification of the treaties will send a clear message to other countries and will provide critical momentum to the drive to bring the treaties into force.

I urge my colleagues to approve the Resolution of Ratification, and thus complete the process of giving the Senate's advice and consent to these two important treaties.

Mr. DEWINE. Mr. President, also on behalf of the majority leader, Senator LOTT, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the ratification of the treaties please stand and be counted. (After a pause.) Those opposed to the ratification will please stand and be counted.

On this vote, with two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

#### EXTENSION OF FISCAL YEAR 1999 VISA PROCESSING PERIOD

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4821, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4821) to extend into fiscal year 1999 the visa processing period for diversity applicants whose visa processing was suspended during fiscal year 1998 due to embassy bombings.

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

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

Mr. DEWINE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4821) was considered read the third time and passed.

#### INTERNATIONAL ANTI-BRIBERY ACT OF 1998

Mr. DEWINE. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the 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.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House disagree to the Senate amendments numbered 2 through 6 of the House amendment to the bill (S. 2375) entitled "An Act 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 agree the Senate amendment numbered 1 with the following amendment:

In lieu of the matter proposed to be stricken by such amendment strike line 8 on page 23 of the House engrossed amendments and all that follows through line 2 on page 25 and insert the following:

(c) *EXTENSION OF LEGAL PROCESS.*—

(1) *IN GENERAL.*—Except as required by 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.

(3) *EFFECTIVE DATE.*—This subsection shall take effect on May 1, 1999.

(d) *ELIMINATION OR LIMITATION OF EXCEPTIONS.*—

(1) *ACTION REQUIRED.*—The President shall, in a manner that is consistent with requirements in international agreements to which the United States is a party, expeditiously take all appropriate actions necessary to eliminate or to reduce substantially all privileges and immunities that are accorded to an international organization described in subparagraph (A) or (B) of subsection (a)(1), its officials, its employees, or its records, and that are not eliminated pursuant to subsection (c).

(2) *DESIGNATION OF AGREEMENTS.*—The President shall designate which agreements constitute international agreements to which the United States is a party for purposes of this section.

COLLOQUY ON S. 2375

Mr. D'AMATO. I am aware that the Senator from Montana has raised concerns regarding section 5 of the bill. Do the amendments considered by the Senate today satisfy your concerns?

Mr. SARBANES. If the Senator would yield, as the Ranking Democrat of the Senate Banking Committee, I would also like to know the views of the Senator from Montana.

Mr. BURNS. I thank my colleagues. Yes, the amendments do satisfy my concerns.

The amendments to the Foreign Corrupt Practices Act (FCPA) approved by the Senate today, to implement in the United States the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, are an important achievement in ensuring fair play for American companies doing business overseas. The value of this legislation for U.S. business fully justifies the action we are taking today. However, there are provisions in this bill that are unrelated to implementation of the

OECD convention. I would have preferred a bill that did not contain these unrelated provisions, principally embodied in Section 5.

The House earlier passed S. 2375 with an amendment making significant changes to language addressing the treatment of international organizations providing commercial communications services which had earlier been contained in Section 5 of H.R. 4353 as reported by the House Commerce Committee. These changes reflect an agreement between the House and Senate Commerce Committee leaders. It is my understanding that the House Commerce Committee report accompanying H.R. 4353 addressing Section 5 of that bill is not germane to the interpretation of section 5 in light of the significant changes made therein.

With respect to Section 5 and the other provisions of the bill concerning the international organizations INTELSAT and Inmarsat, the Senate is accepting these provisions because of our understanding that nothing in the bill will change the immunities treatment of INTELSAT and Inmarsat, nor create an inconsistency with U.S. obligations under international agreements (e.g., by requiring action or inaction by the Executive Branch) or interfere with the President's authorities under the constitution to conduct the foreign relations of the United States. To achieve the objectives of Section 5, the President can be expected to use existing and future negotiations aimed at the privatization of the telecommunications services of INTELSAT and Inmarsat.

I have the following specific views with regard to the bill's telecommunications provisions:

The United States remains in a position to meet fully its obligations under the INTELSAT Headquarters Agreement, an international agreement under which the United States has undertaken international legal obligations to INTELSAT. Nothing in the statute changes the immunity standards of that Agreement. Based on my discussions with the administration, I expect that the President will designate the INTELSAT Headquarters Agreement under subsection (d)(2).

The requirement in [section 5(d)(1)] for the President, consistent with requirements in international agreements to which the U.S. is a party, to take all appropriate actions to eliminate or limit substantially any privileges and immunities from suit or legal process accorded to an international organization applies only to suits or legal process in respect of the organizations' commercial activities. Such an interpretation would be consistent with the theory of sovereign immunity to which the United States adheres.

The requirements [in Section 5(d)] for the President, consistent with requirements in international agreements to which the U.S. is a party, expeditiously take all appropriate actions to eliminate or limit substan-

tially privileges and immunities does not compel the President to take any action which the President may find to be contrary to the interests of the United States and does not compel the President to decertify INTELSAT or Inmarsat under the International Organizations Immunities Act I am pleased that subsection 5(d) gives the President broad discretion to determine what measures are "appropriate" to achieve the objectives of section 5.

The bill should not frustrate negotiations by the President to privatize successfully the commercial activities of INTELSAT and Inmarsat in a fashion that eliminates all privileges and immunities for such activities; this being the best means of satisfying the objective of fair and open commercial competition.

I further understand that all efforts of INTELSAT and Inmarsat to restructure into private business organizations constitute core functions of these organizations, not commercial functions, within the meaning of subsection (c)(1) of Section 5.

I understand that Section (5) of S. 2375 is not intended to overturn or disturb any judicial decision interpreting the privileges and immunities of signatories of INTELSAT and Inmarsat, especially Alpha Lyracom (PanAmSat) v. COMSAT, 946 F.2d 168 (2d Cir. 1991).

It is my understanding that subsection (d) of Section (5) is intended to become effective on May 1, 1999 when subsection (c) becomes effective, since the two subsections are intended to operate in concert.

I appreciate the opportunity to clarify the scope and intent of this legislation. At this time, I would like to ask the distinguished Senator from Arizona, the Chairman of the Committee on Commerce, Science and Transportation if he concurs?

Mr. MCCAIN. I thank the Senator from Montana. I do concur with the statements just delivered concerning the interpretation of Section 5 in S. 2375.

Mr. BURNS. I thank my colleague from Arizona.

Mr. DEWINE. Mr. President, I ask that the Senate recede from its amendments numbered 2 through 6. I further ask the Senate concur in the House amendment to the Senate amendment numbered 1.

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

#### PRIVATE RELIEF BILLS

Mr. DEWINE. Mr. President, in behalf of the majority leader, I ask unanimous consent that the Senate proceed to the consideration of the following private relief bills: H.R. 1834 and H.R. 1794, which are at the desk; and, Calendar No. 609, H.R. 378; Calendar No. 610, H.R. 379; Calendar No. 679, H.R. 1949; Calendar No. 611, H.R. 2744.

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

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

Mr. DEWINE. Mr. President, I ask unanimous consent that the bills be considered read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bills be printed in the RECORD.

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

#### FOR THE RELIEF OF MERCEDES DEL CARMEN QUIROZ MARTINEZ CRUZ

The bill (H.R. 1834) was considered, ordered to a third reading, read the third time, and passed.

#### FOR THE RELIEF OF MAI HOA "JASMIN" SALEHI

The bill (H.R. 1794) was considered, ordered to a third reading, read the third time, and passed.

#### FOR THE RELIEF OF HERACLIO TOLLEY

The bill (H.R. 378) was considered, ordered to a third reading, read the third time, and passed.

#### FOR THE RELIEF OF LARRY ERROL PIETERSE

The bill (H.R. 379) was considered, ordered to a third reading, read the third time, and passed.

#### FOR THE RELIEF OF CHONG HO KWAK

The bill (H.R. 2744) was considered, ordered to a third reading, read the third time, and passed.

#### FOR THE RELIEF OF NURATU OLAREWAJU ABEKE KADIRI

The bill (H.R. 1949) was considered, ordered to a third reading, read the third time, and passed.

#### PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

Mr. DEWINE. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2117) entitled "An Act to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System,