Union, reported that that Committee, having had under consideration the bill, (H.R. 3666), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes, had come to no resolution thereon.

REQUEST TO LIMIT FURTHER CONSIDERATION OF H.R. 3666, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3666 in the Committee of the Whole pursuant to House Resolution 456, the bill be considered as read; and no amendment be in order except for the following amendments, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed:

An amendment offered by Mr. KOBLE for 60 minutes;

An amendment offered by Mr. GUTKNECHT for 20 minutes;

An amendment offered by Ms. JACKSON-LEE of Texas for 10 minutes;

An amendment offered by Mr. KINGSTON for 10 minutes;

An amendment offered by Mr. MARKEY for 40 minutes;

An amendment offered by Mr. ROEMER for 20 minutes;

An amendment offered by Mr. WELLER for 10 minutes; and

An amendment offered by Mr. ORTON for 10 minutes.

The CHAIRMAN. Is there objections to the request of the gentleman from California?

☐ 1730

Mr. BOEHLERT. Reserving the right to object, Mr. Speaker, how do we address the Boehlert amendment, which will serve as a substitute for the Markey amendment?

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, it would not be in order.

If I could verbalize a minor little amendment to this list, at the point of the Markey amendment, with the exception of one amendment to the Markey amendment, within the time limit of 40 minutes by Mr. BOEHLERT.

The SPEAKER pro tempore (Mr. BOEHNER). Is there objection to the request of the gentleman from California?

Mr. MARKEY. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I will give the gentleman the time, if he would like. What the gentleman wants to do is eliminate all these limitations on time in order not to have this amendment come forward. If we eliminate all the limitations on time, surely we will get there eventually and the amendment will come forward anyway.

Mr. MARKEY. Mr. Speaker, it is difficult to agree to a unanimous-consent request which makes an amendment to the Markey amendment, being MARKEY, when the amendment has not even been shared with MARKEY as a way of ensuring that the unanimous-consent request could be done in an amicable way and in a bipartisan fashion seeking to resolve the issue. So I would ask if the gentleman could withhold briefly and the gentleman from New York perhaps could share the amendment since the Markey amendment is already well known.

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, I would say the gentleman, I think, makes a very important point. And I frankly would love to see the amendment to the Markey amendment myself. Therefore, we are going to withhold on this list until that kind of courtesy is shown and we will return to this request for unanimous consent at another time.

Mr. BOEHLERT. Mr. Speaker, if the gentleman will yield under his reservation of objection, if we have the current iteration of the Markey amendment, it is a movable target. There have been so many adjustments in the past 24 hours, I am not sure what we are talking about in terms of the Markey amendment. I would be glad to share my amendment.

Mr. LEWIS of California. Mr. Speaker, I would suggest we come back to this.

The SPEAKER pro tempore. The gentleman from California withdraws his unanimous-consent request.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The SPEAKER pro tempore. Pursuant to House Resolution 456 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3666.

☐ 1733

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3666) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 7 offered by the gentleman from Texas [Mr. BENTSEN] had been disposed of.

AMENDMENT OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KOLBE: Strike Section 421 of the bill.

Mr. KOLBE. Mr. Chairman, before I proceed, I ask unanimous consent that, while they are trying to work out the issue on the other amendments, that, the gentleman from Wisconsin, [Mr. OBEY] is in agreement, that all debate on this amendment and all amendments thereto be limited to 60 minutes, with the time equally divided between myself and the gentleman from Minnesota. That is pursuant, I might add, to the agreement that we had agreed to earlier in the larger unanimous consent.

The Chairman. Is there objection to the request of the gentleman from Arizona?

Mr. OBEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. KOLBE. Mr. Chairman, let me begin by laying out the background of this case. A few months ago, the University Corporation for Atmospheric Research, which is a part of the National Science Foundation, began to consider bids for a new supercomputer. They had been using a Cray computer, and they went through the normal procurement process, the conclusion of which was a bid an unusual bid in the amount of money that was set—$35 million—won by NEC. There is no dispute over the amount of dollars of this procurement. It is $35 million. But to continue, in the RFP that was proposed, the question was posed—what could you do for $35 million? Clearly the bid proposal from NEC, the Japanese company that makes supercomputers, was the best offer.

Following that decision or that initial bid proposal, this information was conveyed to the White House. It was also conveyed to the Department of Commerce.

The Department of Commerce then subsequently wrote a letter to the National Science Foundation in which they said they had investigated the matter and made a preliminary decision that there was clear dumping here. That is, NEC was selling this computer or the software for this computer, at well below cost.

As a result of that letter, even though it was simply a letter and nothing more, remember no formal investigation has ever been conducted into allegations of dumping, language was added in the subcommittee and retained by the full committee, which

would put in place a limitation on funds for any employee of the National Science Foundation that proceeds to sign a contract for the purchase of an NEC computer, if, there has been a preliminary or final finding of dumping on the part of the Department of Commerce.

My amendment would seek to strike that language. Why do I seek to do this? Am I against Cray computers, American-made computers as opposed to Japanese computers? Of course not.

The fact of the matter is, Mr. Chairman, we have a process, a process that is established in law. That process is that an antidumping procedure may be initiated if dumping is believed to have occurred. Almost always it is initiated by the industry. But it can be self-initiated by the Department of Commerce. That is rarely done and has not been done in this case. In fact, there has been no initiation of an antidumping case on the part of the Department of Commerce regarding this procurement.

The Department of Commerce simply on their own wrote a letter which bypassed this internationally recognized procedure and simply said, we think there is dumping going on here.

The law is very clear. If Commerce decides to initiate a dumping procedure, they then send that inquiry to the International Trade Commission. The International Trade Commission then decides on an initial basis, if injury has been done. They then send it back to the Department of Commerce to determine the amount of the damages and injury that has been done, or whether injury has occurred. The International Trade Commission then makes a decision as to the extent of the damages, and the final result is that a sanction may be applied.

The only sanction under the law, and I would hope that this body cares a little bit about following the law, the only sanction under the law is that a tariff may be applied against the company that is dumping, the industry which is dumping, in this case against NEC. It is very clear, and in fact our trade laws make it very precise, that we do not link procurement with dumping laws because that violates the international agreements that we have, World Trade Organization agreements.

We do not link the procurement process with dumping. So it is against the law for us to unilaterally impose punitive measures and say, you cannot go ahead and buy this computer. If indeed the NSF proceeded to buy this computer and it was found that there was dumping, a tariff may be applied in the future, against any other computers that are bought. That is the background of this case.

In essence, the action of the subcommittee of adding this language violates our procurement laws. It violates our antidumping law and it violates WTO agreements. We have made a big thing in this country, and I hope in this body, about the rule of law. We have tried to get other countries to follow the law. We have tried to get those countries to follow the law so that they would abide by the rule of law.

We have made a big case about getting Japan to open its market to computers, and we have had some success.

The CHAIRMAN. The time of the gentleman from Arizona [Mr. KOLBE] has expired.

(By unanimous consent, Mr. KOLBE was allowed to proceed for 2 additional minutes.)

Mr. KOLBE. Mr. Chairman, we have had some considerable success in this regard. In fact, Cray has sold and installed in Japan 170 supercomputers. NEC has installed in Japan, their own country, 80 computers.

In the United States, Cray has installed 320 supercomputers versus 2 for NEC and none to a Government corporation, a Government agency.

Mr. Chairman, are we to suggest here tonight that we are going to deny the right of the NSF, which has looked at the bids and has decided that this is clearly the superior computer, that we are going to say, you cannot proceed with that and jeopardize all of the trade laws, all of the sales which Cray and others have made, all of the efforts we have made to open this market to our computers and to other countries and to other companies that sell in that market?

I want to make it clear that the bottom line has nothing to do with whether it is Cray or NEC that gets the NSF contract. It is a process that must be followed here. There is a process for an antidumping case. The process has not been followed by the Department of Commerce, and this body is preparing to violate it in a very major way tonight. Because we are going to say, notwithstanding our procurement laws, notwithstanding the antidumping laws, and notwithstanding the WTO and, by the way, Japan will have a perfect case to take against us to the WTO and we will be sanctioned then on all computers that we try to sell in Japan, notwithstanding all that we are simply going to say that, if the Department of Commerce writes a letter, with no investigation ever conducted, that you cannot buy this computer. That violates the law. It violates the rule of law. It violates all the standard procedures, and we ought not to do it.

Let us follow the procedure. We stand for the rule of law. We stand for doing the right thing. I urge my colleagues to reject this language, to support the Kolbe amendment, to reject this language and to remove it from the legislation.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the issue here is very clear. The issue is whether we are going to stand up for America and stand up for fair trade under the rule of law or not.

What are the facts? This Congress is being asked to appropriate $277 million, and the purpose for that, I quote, is ''to promote fundamental research in education and computer and information sciences and engineering and to maintain the Nation's preeminence in these fields.''

Despite that, a grantee of the National Science Foundation wants to purchase a supercomputer. They have put out a bid to buy it for a fixed price of $35 million. Three companies bid, one American company and two Japanese companies. The United States machine on a pound-for-pound and chip-for-chip basis ran at a faster clock speed than did their Japanese competitors. But one Japanese company, NEC, proposed to sell three times the machine at an estimated cost to manufacture of somewhere between $90 million and $110 million. So they proceeded to try to sell a machine which cost three times as much as the price at which they were willing to provide it to the NSF grantee.

The NFS was warned by the Commerce Department that this appeared to be a case of dumping, and it appeared to be a violation of our trade rules. But before the Commerce Department could get a written document to the NSF, NSF decided to proceed anyway because they wanted to have that computer at a cut-rate price.

☐ 1745

Now the question is why would the Japanese sell a $110 million computer for 35 million bucks? It is very simple. The supercomputer industry is critical to the future economic strength of this country and to our national security. The supercomputer industry is very small, but it is a cornerstone of U.S. competition and of our competitive posture.

It is crucial to the design of aircraft, it is crucial to the design of jet engines.

In World War II, one of the reasons we won is that we broke the Japanese and German codes. The Nation with the best supercomputer capacity can decode another Nation's secrets, it can predict weather better, it can unravel the mysteries of genetics. It is absolutely key in the design and simulation testing for new automobiles, for new weapons, for new aircraft, for new items of virtually every kind in the economy, for new drugs.

A supercomputer, for instance, is key to the design of the new Boeing 777. And yet financial analysts who look at what is happening in this field worry about the long-term survivability of the U.S. supercomputer industry. Now, they do not worry about it because they think we do not produce products of quality. They worry about it because of the huge deep pockets that Japanese corporations have in comparison to American corporations who produce these supercomputers. U.S. companies have to finance their R&D, their development of new products out of profits from current sales. But in Japan, Fijitsu and NEC are backed by virtually limitless credit from their huge mega banks.

I would point out that neither Japanese supercomputer company has ever made a profit selling supercomputers. They are willing to sell at a loss simply because they want to break the U.S. market, they want to drive the U.S. industry right off the face of the globe, and then they will have an absolute and total monopoly on supercomputer capacity and capability in this world.

So now what this bill says is something I suppose some people see as very shocking. It says simply that none of the funds can be used for this agency to purchase a supercomputer if the Commerce Department determines that it has been dumped on the U.S. market. Now, the Commerce Department has not yet made a preliminary nor a final determination. They have made an initial guess about it, and they tried to stop the agency and slow them down until this could be evaluated, but the agency was hell-bent to go ahead because they were putting their own narrow interests, in my view, ahead of the broader interests of the country.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 3 additional minutes.)

Mr. OBEY. Now, the authors of this amendment or the author of this amendment is saying that it violates trade laws. It most certainly does not. There is no trade law, there is no trade pact which we have joined which requires us to accept dumped goods. The authors say, ''Well, why don't you follow the process normally used for consumable items? That's what you ought to do.''

The problem is it is very different if one is dealing with an automobile versus a supercomputer because if one simply waits and allows for a final determination down the line, the only penalty is to assess an additional tariff. Japan has already indicated they will gladly accept that additional tariff in order to bust the U.S. market and compete successfully because of their deep pockets.

We are told that the Congress is violating the law if they do what the committee is suggesting. They do not. The Congress does not violate the law. If my colleagues take a look at Footnote 24 to the antidumping agreement to which America subscribes, there is a recognition that other actions can be taken. It is suggested that we are violating the procurement law. That is not correct, because the procurement law only applies directly to American agencies, and what we are discussing here is the action of a grantee of a U.S. agency.

So there is in no way a violation of either U.S. law or violation of trade agreements to which we have become a party.

There is a reason why the gentleman from California [Mr. HUNTER], why the gentlewoman from Ohio [Ms. KAPTUR], why myself, why the gentleman from Minnesota [Mr. SABO], Ross Perot and a wide variety of people in both parties support the committee action: because they recognize that it is critical to the security interests of this country, they recognize that it is critical to the long-term economic needs of the country.

All we are saying is, if in the end this computer is determined to be purchased at a dumped price, do not buy it. That is all it says. We could have gone much further, as has been done in the defense bill, and simply say, ''You can't sell any foreign computer.'' We did not say that. We preferred to allow the Commerce Department to make a rational determination. That is what one would do if they are interested in protecting the national security interests of the United States.

Mr. Chairman, I would urge a ''no'' vote on the amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the last word and rise in support of the Kolbe amendment.

Mr. Chairman, because of Japan's trade barriers, the United States of America negotiated an agreement with Japan to have free, open, and transparent trade in government procurement of supercomputers. yes; this does violate that agreement. It is written so broadly it does violate that supercomputer bilateral agreement. It also violates the World Trading Organization's, the WTO's, antidumping agreement. It also violates a WTO government procurement agreement.

Now, who wins from this international trading system? America wins. If the international trading system goes under, we lose international protection of property rights, of intellectual property rights. If is all part of the same system. We benefit from the international protocol that governs trading, and we cannot go out there and violate the agreements that America has put her signature to.

As a result of this agreement, whose goal it was to overcome Japanese barriers in their market, the United States has sold 12 supercomputers to the Japanese Government. Now a Japanese company is about to sell one to our Government. That is a pretty good deal.

The American market is growing only slowly because our population is growing only slowly and our population is aging. Older people do not buy as much as younger people. If we are to have a rising standard of living for our folks, if we are to have faster growth in our economy, we must be competitive in the international market and we must have solid rules that govern international trading, or our kids will not have the career opportunities they want and they will not have the rising standard of living they hoped for.

If there is one thing my constituents are concerned about and one thing they say to me day after day, it is, ''We're concerned about wage stagnation''. And believe me, Connecticut has had a tough time in the last 5, 6, 7 years. Wage stagnation, slow economic growth; those are the problems we face, and if we persist or if we go forward with this proposal that blatantly violates an agreement we put our name to, we will not only lose in the short term, as Japan retaliates in whatever industry she targets, but in the long term we lose the protection of international trade law and that will cost us jobs. Retaliation hurts. It is not neutral. It costs jobs. It cuts incomes. But worse than that, it sends a terrible signal. The affirmative action to abrogate an agreement we are a party to, following passage of Hill-Burton and the legislation offering trade with Iran, sends a signal to the international community that we are not prepared to adhere to the only trade protection that can assure fair trade. I have fought all of my years here in Congress for fair trade. I fought for the machine tool industry, I fought for the bearing industry, I fought to preserve our dumping laws, I fought for 301 retaliation. I have been over there in Geneva with many of my colleagues with Chairman Rostenkowski, former chairman of the Committee on Ways and Means, as the final deals on the GATT agreement, were made. We fought hard to get our way and we won on most points.

For us now to purposefully, consciously, by legislation, violate agreements that we put our name to and that are benefiting us simply is nuts, and it is going to destroy our credibility as a member of the international trading community. It is going to hurt international trading companies, and more and more we know it is the small companies who are in our export market, and it is going to cost jobs. It is going to undermine the very export promotion programs, the export growth, that is driving America's economy.

We do not domestically have the buying power anymore to guarantee our people a rising standard of living. We do not have it. We are not growing that rapidly, and we are aging rapidly. We depend on success in the export market.

Not to support the amendment offered by the gentleman from Arizona (Mr. KOLBE) to strike this provision from this bill is to say to people, ''I'm more interested in politics that I am in your wages and in your economic future and in the strength of this Nation and the preservation of the very regimen that guarantees, that has the best hope of creating for us free and fair trade worldwide, and with that free and fair trade over the decades ahead, prosperity and peace.''

I urge support of the Kolbe amendment.

Mr. LEWIS of California. Mr. Chairman, there has been a bit of discussion on both sides regarding the question of time limitation earlier, and, as I understand it, the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Arizona [Mr. KOLBE] are in agreement separately to have 20 minutes on

each side on this amendment. Presuming that, I ask unanimous consent to limit the time to 40 minutes, 20 minutes on each side.

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

Mr. SKAGGS. Reserving the right to object, Mr. Chairman, if I may, I have a very direct district interest in this particular controversy, had not been involved in the negotiation on the time limit and, therefore, have not had a chance to discuss with the gentleman from Arizona [Mr. KOLBE] what the allotment of time might be under the proposed unanimous-consent request.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the request is 20 minutes on each side.

Mr. SKAGGS. I mean within the gentleman's 20 minutes, and I just need assurances of an adequate piece of that time from the gentleman.

Mr. LEWIS of California. We will try to see if we can get him to yield.

The CHAIRMAN. The gentleman from California's unanimous-consent request is for 20 minutes controlled by the gentleman from Arizona [Mr. KOLBE] and 20 minutes controlled by the gentleman from Wisconsin [Mr. OBEY].

Mr. LEWIS of California. Yes, Mr. Chairman.

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

There was no objection.

Mr. KOLBE. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. CAMPBELL].

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

Mr. CAMPBELL. Mr. Chairman, I wish to begin on the question of the Government procurement code, and I would yield to my good friend from Wisconsin, if I could have his attention. Might I have the attention of the gentleman from Wisconsin [Mr. OBEY], the author of the provision to which I am speaking? I wanted to offer to yield to my good friend from Wisconsin, and if I am wrong, I will be the first to admit it.

But I have a copy of the procurement code in front of me, and the reason why I am speaking is that I took the gentleman's comments to say that the procurement code did not cover this case because the procurement is by the National Science Foundation, and I will yield if the gentleman would make his point regarding the procurement code, and then I will read the section on point.

□ 1800

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

Mr. CAMPBELL. I yield to the gentleman from Wisconsin.

Mr. OBEY. I did not have a point to make on the procurement code, Mr. Chairman. The gentleman from Arizona [Mr. KOLBE] suggested we were in violation of procurement laws. I said that we were not, because the argument that has been made about that relates to the action of government agencies, not grantees.

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman for responding. Here is exactly why I want to speak to the point. The procurement code reads, in article I section 3: ''Where entities, in the context of procurement covered under this Agreement, require enterprises not included in Appendix 1 to award contracts in accordance with particular requirements, Article III shall apply . * * *''

So the procurement code in itself deals with Government agencies and then, in article I, section 3, says, and I repeat: ''Where entities, in the context of procurement * * * require enterprises not included in Appendix 1 to award contracts in accordance with particular requirements, Article III shall apply. * * *''

So unless the gentleman wishes to correct me, and I would yield to him for that purpose, I believe his point is, with good intention no doubt, simply erroneous—that the procurement code does apply where a Government agency imposes a requirement on another enterprise in regard to a contract, as this law would. My friend, the gentleman from Arizona, makes a very valid point. This provision violates the procurement code.

Mr. KOLBE. If the gentleman would yield this amendment is a limitation on the National Science Foundation, which is an agency, so it clearly does go to the procurement code, to the National Science Foundation. I would also make the point that the procurement code says we must give national treatment: We cannot treat one country differently than another. This does that, it violates the WTO, it violates the procurement code.

Mr. CAMPBELL. Mr. Chairman, I grant the gentleman's point, but I think we have an even better point. Even if the Obey language were a requirement upon an enterprise, rather than the Government entity itself, it is covered by the procurement code. So I believe we have them both ways. This does violate the procurement code. The policy question I have is, do we want to violate the procurement code? I certainly hope we do not wish to violate international trade law, but that is what Government procurement code is.

The second and last point that I have to raise is the issue about violating the antidumping code. I would like the chairman's permission to recite what a commissioner of the U.S. International Trade Commission has told my good friend, the gentleman from Arizona, on June 19. He said, ''I believe that the amendment, if passed,'' referring to the amendment by the gentleman from Wisconsin, ''is in probable violation of our GATT–WTO obligations. In particular, the amendment appears to be inconsistent with article 18.1 of the antidumping code, which prohibits GATT members from taking punitive measures in response to dumping, other than those set forth in the antidumping code.''

The reason is this: We have in our antidumping law a requirement that, first of all, the Department of Commerce find that there is a difference in price in the country where the good is sold and made and the country into which it is imported. Then following that, there must be an injury finding. The reason is the natural concern that countries have that if goods are selling at two different prices in two different markets just because the market conditions are different, that that may or may not be unfair. But if there is injury to the U.S. domestic market because of it, then it is unfair. I note that the gentleman from Wisconsin's amendment does not include that injury requirement.

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

Mr. WALSH. Mr. Chairman, I thank the gentleman from Wisconsin for yielding time to me.

Mr. Chairman, I rise in opposition to the Kolbe amendment and in support of the committee bill. Mr. Chairman, this procurement for the NCAR, National Center for Atmospheric Research, for a supercomputer of Japanese make, Japanese make, NEC, what we are doing is supporting a policy of subsidizing prices of Japanese products by the Japanese Government for sale in the United States.

We have a history of this. My background was in telecommunications. I saw it happen in the telecommunications industry. We are talking about a sale of a computer for $35 million that has been estimated to be worth $100 million. If this was a supermarket, this would be referred to as a loss leader. You walk in the door, you buy a quart of milk for 50 cents, and you hopefully, as far as the supermarket is concerned, spend a whole lot more money while you are there. This is a way to get in the door. It is dumping. It is a subsidy.

If our laws do not cover this, I would be surprised, but good judgment should. Good judgment should. If the NSF has found themselves a good deal by comparing two fairly similar computers, and they get a similar price so they opt for the Japanese make, that is fine; but the fact is the Commerce Department has determined that NEC is dumping, and we should be supporting that activity. So I would strongly urge a ''no'' vote on the Kolbe amendment, and stop rewarding foreign dumping in the United States.

Mr. KOLBE. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding time to me.

Let me pick up where the gentleman from New York left off, because there has been no Department of Commerce determination of dumping. What there has been is what I think would be best referred to as an extraordinary back-of-the-envelope, very unusual, preliminary, preliminary guess by the Department of Commerce that there might be dumping. But upon analysis, two things are really very clear: First, they did the arithmetic wrong; second, they should not have done the arithmetic to begin with, because it is out of the normal process for dealing with these issues.

As the gentleman from California pointed out, the law provides a very firm, formal methodology for determining whether below-cost, unfair pricing occurs, and then what the remedy should be. We have not gotten to that point yet.

Clearly we should not be using taxpayer money to buy a foreign-made good that is dumped in this country. No argument about that. But we are getting way ahead of ourselves in assuming that that has been established in this case, because it has not.

There has been only one other case that anyone that I have been able to find could remember where the Department of Commerce issued this kind of an extraordinary predetermination before a case has even been filed. So, for some reason, the Department of Commerce wants to get ahead of its normal process in this case. In doing so, it simply, as far as I have been able to determine, probably did a sloppy job.

The reason it reached its conclusion, as far as one can tell, and we are none of us experts in this kind of analysis, was because they apportioned the R&D costs attributable to this machine across one-tenth of the number of units that should be used, thereby greatly inflating the proportion of R&D costs that would be factored in; and second, because they failed to look at it as a lease transaction, in which there would be residual value going back to the manufacturer or the lessor, which would serve to increase the net profit.

But in any case, Mr. Chairman, we do not have any business doing this on the floor of the House of Representatives.

What this is about is the earnest, good faith effort made by the National Center for Atmospheric Research [NCAR], which happens to be based in Boulder, CO. It does world class science on the atmosphere. It needs the most powerful computer capability it is able to buy with its NSF grant, with taxpayer money, to do the best work it can for all of us.

NCAR started out some time ago in this procurement effort, put out an RFP to 14 prospective vendors, 12 of them U.S. manufacturers; has strictly adhered to the Federal acquisition regulations throughout the process; ended up with three serious proposals; asked all of those people to go through best and final offer; and has now, at the request of the Department of Commerce, undertaken its own very rigorous analysis to determine whether there is any unfair pricing involved in this. I am absolutely certain it will be perfectly prepared to reexamine this whole exercise if there is any solidly developed determination, preliminary or final, of unfair pricing. But we simply do not have that.

Mr. Chairman, if we want to have a debate in this body about whether we should ever allow a supercomputer to be purchased with U.S. Government taxpayer funds from other than a U.S. manufacturer on national security, national infrastructure grounds, let us have that debate in an appropriate setting. It is not appropriate to be having that discussion as an adjunct to an appropriations bill. We already have in law all the guarantees and remedies necessary to deal with unfair pricing if it should turn out to be the case in this instance.

With respect to the question of the future of U.S. supercomputing, there are, by GSA analysis, General Services Administration analysis, some 700 supercomputers currently owned by various agencies of the U.S. Government, approximately 500 of those 700 in various Defense Department and national security-related agencies that are essentially going to be buying American. So if there is any question that we are going to have a very, very substantial and virtually guaranteed market for an American supercomputer industry, rest easy.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

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

Mr. LEVIN. Mr. Chairman, we could debate the technical issues, and I enjoy doing that on antidumping. This provision that the Kolbe amendment is attacking may not be perfectly drawn, but let me say I think the amendment is a very imperfect solution. There is a real problem here. In the past, industries in this country have been targeted. In the 1980's it was semiconductors, machine tools, televisions, VCR's; almost you name it, and a major industry was targeted.

Now there is considerable evidence that supercomputers are being targeted, and what is happening is that profits from a sanctuary market in Japan are being used to drive out the remaining U.S. companies. Most of them are out of business.

I suggest, Mr. Chairman, that this is not the appropriate forum to discuss all the intricacies of our antidumping laws and the role of this agency or another agency. There is a problem here. The bill has an honest effort to address it. If there are some technical problems with it, it can be handled later on, but do not try to cure that by ignoring what is a real problem in an important industry, as the L.A. Times said, one of the industries of the future, really of the present, a corner of American competitiveness.

It has been said we are getting way ahead of ourselves. To the gentleman from Colorado [Mr. SKAGGS], I would say in the past the problem has been we have been way behind when American industries have been targeted and have been lost. Let us not lose this one. Defeat the Kolbe amendment.

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

Mr. Chairman, the gentleman from Michigan [Mr. LEVIN] is absolutely correct. There is a problem here. He said, let us not worry about the technical aspects of this. We can correct that later. There is a problem, all right. We are violating GATT and WTO agreements, we are violating our antidumping laws, we are violating our procurement laws; just minor little details, apparently, to some people. I think these are important matters. We have a firm commitment in this country to the rule of law. We ought not to so casually and cavalierly disregard that.

I would also like to respond to something that was said earlier by the gentleman from Wisconsin when he talked about the danger that we face of driving our industry out. Some danger: Cray has installed 130 supercomputers in Japan versus 80 by NEC and Fujitsu; in other words, more than 50 percent more by an American company. We are endangering that, all right. We endanger selling any more American computers in Japan if we take this kind of action, because they have a perfect recourse under the WTO to stop us, to levy fines and sanctions against us from selling computers.

Another point that should be made is that Cray has installed 320 supercomputers in the United States versus 2 from NEC. Some danger that Cray is in here. The gentleman is right, we are endangering. We are endangering the U.S. industry with this action, not with the action that was taken by the National Science Foundation and its grantee, the University Corporation for Atmospheric Research, which did follow the procurement procedure exactly as they were supposed to.

Finally, let me say with regard to the matter that NEC is selling at below cost, the National Science Foundation, or rather the University Corporation for Atmospheric Research [UCAR], asked for an analysis to be done by a respected law firm here in Washington on this issue. They concluded that the Department of Commerce analyzed the wrong transaction. The treaty antidumping statute applies to the sale of imported merchandise to the first U.S. party, unrelated to the exporter. It does not have anything to do with leased kinds of equipment.

It also says that antidumping law provides, they concluded, that the fair value determination should be made by comparing prices for the same or similar products in the exporters' market or third country market with the U.S. price; but they conducted the type of constructed value analysis that is a method of price comparison that is invalid in this country, because of the

absence of a home market or third country sales that have not been demonstrated.

□ 1815

So even on the back-of-the-envelope analysis that was done, by Commerce and the gentleman from Colorado [Mr. SKAGGS] had it exactly right, it was a back-of-the-envelope kind of thing, they said on their own that they did not want to actually initiate antidumping because they were uncomfortable. The Department of Commerce instead just sent this letter. So they violated the process that they are supposed to follow, that the industry is supposed to follow to have an antidumping case.

We have an antidumping process because Members on that side of the aisle and this side of the aisle said there has to be a way from companies to deal with this when there are allegation of dumping. Well, let us follow the law.

I would just say that what I am talking about here is the process. Again, there is a process to be followed. We are not following that process, and we are suggesting that we are just simply going to ignore the law.

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

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

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

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman for yielding me time.

I rise to oppose the Kolbe amendment. I do so reluctantly because I have respect for the gentleman from Arizona [Mr. KOLBE] and for the position which he is taking. However, we can argue the legalities endlessly here in terms of whether we are violating any procedural process with GATT or the World Trade Organization.

I am not going to get into that because there are interpretations on both sides of this thing which I could agree with if I listen to very, very erudite lawyers.

However, what I am saying is this: Over a period of years I have seen egregious examples of dumping coming in very small packages. It would seem to me this particular case with the National Science Foundation that it is a perfectly normal and legal and obvious approach to have the Department of commerce review this to see whether there is any dumping.

Once you get an acknowledgment of the fact that NEC or any other computer is approved by an extraordinary group like the National Science Foundation, then you have something far more than the purchase of that one unit. I think is a perfectly normal process, I agree with it, and I reluctantly oppose the Kolbe amendment.

Mr. OBEY. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, I rise in strong opposition to the Kolbe amendment.

In behalf of the language that is in the bill, might I inquire of the gentleman from Wisconsin [Mr. OBEY] what our language is in the bill?

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

Mr. SABO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, all the language says is that, if it is determined that this supercomputer has been dumped on to the U.S. market, that it cannot be bought.

Mr. SABO. I thank the gentleman.

Mr. Chairman, reclaiming my time, I have listened to some of these arguments. The gentlewoman from Ohio [Ms. KAPTUR] will speak later. The gentlewoman knows our trade deficit with Japan. I think it is $70 billion or so; $60 billion, only $60 billion.

Here we have a very sensitive industry. I believe we have spent something like $5.5 billion on R&D on supercomputing through DOD and the NSF since 1991 to make sure that we retain our technological edge in this country. It is a very small industry, very key to our economy, very key to our national defense. We are told, I heard here a while ago, that, unless we ignore dumping in this case, that is going to destroy the American standard of living. That sort of leaves me confused.

It seems to me that we should make sure on this very crucial, small industry that the Japanese do not dump a product into our markets, particularly when it is taxpayer dollars going to purchase it. It seems to me we should continue on the policy of R&D to make sure we retain our national edge.

I hear all of these things, how we should be afraid of Japanese retaliation. The reality is the history of competition in Europe is the U.S. products win. We have not won in Japan. In 1995, the public supercomputer procurement market share in Japan: United States, 8 percent; Japanese, 92 percent. Do you think that is because of quality and cost and price? No; it is not. Our products are the best and the best price. Procurement by the Government in Japan in 1995, 11, Japanese; 1, United States. Do you think that is because they had superior quality and price? No.

So I do not know. Mr. Chairman, I am not a technical expert to make the judgments on whether they are dumping. All indications are that they are. This amendment would ask the Department of Commerce to appropriately make those judgments. If we are, we should not be spending taxpayer dollars to buy it.

People say: Oh, go through this process, put the computer in, let them get by with it. Some place, some time later, some tariff may be applied on a supercomputer. You know, they may not even sell the same product 1 year from now or 6 months from now.

So the provision in the bill is a good one; this amendment is one we should overwhelmingly reject.

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

Mr. SABO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I commend the gentleman for his leadership role. This is the evolution, this is the last chance to have a supercomputer company. I heard them talk about the computers sold in Japan. I wonder how many of them resulted in offsets where we actually had a transfer of technology in order to sell the product in Japan. Sixty-six percent of our avionics and electronics are an offset.

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

We talked about what this would do to our supercomputer industry, which is one company: Cray. Let me just tell my colleagues what they said in a memorandum to their own employees just a month ago in which they said, it is a Q and A kind of memorandum.

Question. How much of an impact does the entire deal have on Cray financially and in terms of jobs?

Answer. It is a large procurement, but we as a company do not live or die by one deal. It does not make or break our revenue goals for the year, and it does not really make a difference in employment because we do not staff up prospectively for business that is not booked yet.

Mr. Chairman, this is not going to make or break Cray; they are doing very well in Japan. Let us not jeopardize the sales of computers that they have in Japan. Let us not jeopardize this with the kind of action that is being talked about here today. Let us not jeopardize this by violating our own law our law makes it clear that you can only have a sanction after there is a final determination of dumping, and then it can only be in the form of an antidumping tariff, not in terms as proposed by section 421. It violates our dumping laws, and our procurement costs.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute simply to say that I think the gentleman ought to consider what is happening today, not in the deep, dark, distant past.

My colleague talks about the wonderful performance of the Japanese in purchasing American supercomputers. If we read Foreign Trade Barriers, 1996 national trade estimate report on foreign trade barriers put out by the U.S. Trade Representative, we will see the following:

> The positive trend in Japanese government supercomputer procurement witnessed in fiscal year 1993 and 1994 was reversed in 1995 during which U.S. firms won only 1 of 11 Japanese government procurements. Moreover, the United States has serious concerns about the conduct of the procurement process in two specific procurements.

I would suggest that hardly suggests to me that the Japanese are about to turn over a new leaf.

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

Mr. OBEY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I just think it points right out to this offset agreement where they demand that the product, not just that they transfer the technology and then they produce it and then the next thing you know they are selling it back to us, our own technology, except that it has a Japanese label on it.

Mr. OBEY. Mr. Chairman, I yield 4½ minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time and rise in very strong support of the committee bill and oppose the Kolbe amendment, which was defeated in the full committee.

The language in the bill is fair, it is reasonable, and without question it is in our national interest.

The issue here really is why should we not as lawmakers ensure that the bidding process in this Government procurement activity is conducted in a fair manner at fair value offers. That is all it says.

It is somewhat curious, although it is not curious to those who have watched Japan over the years, that for a system that should cost somewhere between maybe $80 million and $100 million, the bid comes in at $35 million. Kind of interesting the way Japan behaves on the international market.

Mr. Chairman, if we go and read a recent book by the President's chief economic advisor, Laura Tyson, and I do not think she knew we would be debating this, but in her book, ''Who's Bashing Whom,'' she gives us a window on what Japan really does and how they compete, and I quote directly.

She says:

At the root of the ability of Japanese firms to compete aggressively on price, even when it means selling products below cost and running losses, are the unique structural features of the Japanese economy. The companies competing with—U.S. firms like—Cray and Motorola have deep pockets and long time horizons. They can afford to cross-subsidize losses in one market with profits from another. They continue to benefit from a variety of promotional policies and from lax enforcement of regulations or restrictive business practices. They also continue to benefit from the insulated nature of the Japanese market, fostered by these and other structural impediments. In short, the pricing behavior of Japanese companies is a natural outgrowth of Japan's business and government environment.

We know it is a protected environment. There is not a person in this institution that would call Japan a free trader.

I know that the gentleman from Arizona [Mr. KOLBE] is a complete free trader. I am a fair trader. There is no way anybody could call Japan a free trader.

Now, if we look at this particular market, and I can still remember Norm Mineta when he served here laboring over those agreements with Japan trying to get 5-percent access in the market, 10-percent access, maybe 12 percent, and then Japan would violate those agreements. There is not any question Japan has a habit well recognized of underbidding in almost every market.

Look at what they did to us on the airport, the new airport out there, Osaka. We could not get U.S. firms to be able to bid into that construction.

So it is not just in supercomputers. It is in construction. It certainly is in the automotive industry. The results are painfully clear to the American people if they are not painfully clear to every Member of Congress here. That is we have maintained a $50 billion to $60 billion trade deficit now, annually, annually, in this decade growing every year regardless of what the exchange rate is.

I remember one of my dear friends, the gentleman from Florida, SAM GIBBONS, said to me: Well, if only the exchange rate, U.S. dollar to the yen, would go down from 240 to maybe 250 yen to the dollar. Why, we could just crack the Japanese market.

You know what? It never happened. And then the yen went down to 90, and the trade deficit kept going up. It does not matter whether Japan has got pneumonia or whether she is the most strident economy on the face of the earth in any given year. The trade deficit just keeps going on.

I would just have to say, let us wake up. Let us wake up. Let this Congress not be bound up in legalisms and procedures that we knot ourselves up into. Let us look at the bottom line, and let us do everything we can in order to ensure that the bidding practices in this situation are completely fair.

In many ways, supercomputers translate into national security. Let us not be naive. Support the committee bill. Oppose the Kolbe amendment, and stand up, for a change, for fair bidding practices.

□ 1830

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I listened to the gentlewoman from Ohio and I assume she believes that dumping is taking place in this case. I do not know if that is a fact or not. But if it is, there is a process to be followed. You file an antidumping case, you make a determination, you make a determination of the injury, and then you impose a sanction. The sanction is an antidumping tariff. I do not understand why the gentlewoman and other people over there are not willing to follow the law, the law that we voted on, that we adopted here.

Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I thank the gentleman for yielding me some additional time.

Mr. Chairman, again I think all parties to this debate would stipulate that we are not going to buy anything with taxpayer money that we know to be priced unfairly. We are not going to ignore dumping. There is a regular order to be followed in dealing with those cases when they arise. We do not know if this is one of those cases or not.

Contrary to comments that have been made earlier by the gentleman from Minnesota, all indications are not that we have a dumping case.

The only indication that we have one is that very sloppily done predetermination made by the Department of Commerce contrary to the regular procedures that are supposed to apply. They basically put this through a black box and came out with an answer that nobody is able to review or scrutinize against any known standard. So we are really boxing against a sort of mythic opponent here.

What the regular Department of Commerce process prescribed by law requires is a very rigorous, very open process on the record with extensive filings of documentation of costs and pricing that the whole world can look at and scrutinize and analyze, that is subject to technical review, not in this kind of a very unfortunate circumstance. That is the way that we need to proceed.

If we want this aspect of our trade law to be different and if we want it to be handled differently, then we need to go through the process of changing the law and renegotiating our international trade agreements. We cannot make policy on this in an ad hoc, case-by-case basis, when something high profile like this jumps up and grabs our attention. It will not serve the national interest in the long haul to proceed in this fashion.

Mr. OBEY. Mr. Chairman, I have only one remaining speaker and I understand we have the right to close.

The KOLBE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, just one point: What does this amendment provide? It removes the language by the gentleman from Wisconsin. That language does not say what was reported in the colloquy between the gentleman from Wisconsin and the gentleman from Minnesota, that the NSF may not buy this computer if dumping is found by the Commerce Department. What it says is that NSF cannot go ahead if there has been a ''preliminary'' or a ''final'' determination of dumping. The whole difference here is if the dumping finding is just preliminary and not final. If it is only a preliminary finding, it violates our international obligations to impose sanctions.

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

Mr. Chairman, let me just reiterate a couple of points here. There is a process that we have adopted that must be followed when we believe dumping is taking place. The process requires the industry or the Department of Commerce to initiate an antidumping case. The International Trade Commission then makes an initial determination of injury. The full investigation is then done by the Department of Commerce.

It goes back to the International Trade Commission for ratification and for the imposition of an antidumping tariff. That is the process. That is the law.

As the gentleman from Colorado so aptly put it, we ought not to be engaging in ad hoc changes to our entire law as it relates to procurement, dumping, and international agreements. We should not be jeopardizing our supercomputer industry. Any foreign country would have a perfect case against us when we violate the law and violate our international agreements in this fashion to block the sale of supercomputers overseas. If people believe that we should have a process of protecting ourselves, then they should adopt that process and follow it. If the process is not right, change the process.

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

Mr. OBEY. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, let me say I respect the arguments being made by both sides. This is legitimate debate. I simply want to make a few points to refute what has been alleged by the amendment's sponsors.

I want to repeat, this bill does not say that we cannot buy this computer. What it says is that if there is either a preliminary or a final determination by the Commerce Department that this constitutes dumping by the Japanese, that then that computer cannot be purchased.

The reason it is worded that way is very simple: It can take up to a year to reach a final determination, whereas a preliminary determination, which has not yet been made, if a preliminary determination is reached it usually takes about 4 months.

The problem with waiting over a year and the problem of doing what the gentleman from Arizona wants us to do, and simply rely on the post-fact additional tariff if there is found to be dumping, is that that suits the situation if we are talking about consumables. But if we are talking about an industry such as the supercomputer industry, which is so integral to the defense of this country and to the national welfare, if we simply allow a Japanese company which has already demonstrated it is willing to sell every supercomputer they sell at a loss, then they are certainly willing to eat the additional tariff that would be imposed upon them in order to break the supercomputer market in this country and to eventually drive American supercomputer producers out of business.

We used to have 15 American supercomputer producers. We were down to 5. Two of them got out of business. There are really only three companies left in this country who produce anything that can be called close to the supercomputer and only one, Cray, which is still left fully standing. They will not be standing for very long if we allow the Japanese to continue this predatory pricing of theirs.

I want to make the point: we have signed no agreement that requires us to buy dumped products. We have signed an agreement to require open and transparent trading, but that was never meant to serve as a cover for predatory pricing of products.

We could have done, as I said, as has already been done on the defense bill, simply say these computers cannot be bought, period. I did not hear anybody object to that. But we took the more modest approach of simply saying if a determination is reached by the Commerce Department, then that supercomputer shall not be purchased with American tax dollars, because these dollars are appropriated to expand and to maintain the American preeminence in this field, and yet they are ironically being used to undercut that preeminence. All we are saying is if they reach that determination, then we cannot buy this supercomputer. That is all we are asking to do.

I would make the point that it ought to be obvious that if those Japanese corporations have never made a profit on the sale of a supercomputer, it is obvious that they are not after profit. They are looking at their long-term ability to bust the U.S. lead, break into our market and eventually drive our short-pocket companies out of business. I do not think that is in the interest of the United States.

I appreciate the bipartisan support for the action taken by the committee, and I would urge that the committee uphold the judgment of the committee.

Mr. SKAGGS. Mr. Chairman, I ask unanimous consent that each side have 2 additional minutes in this debate so as to accommodate the body hearing from the gentleman from Illinois [Mr. CRANE].

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

Mr. OBEY. Mr. Chairman, I must respectfully object. I was asked to agree to a time limit. I have the right to close. Now we are being asked to violate that process. I really do not think that is fair.

The CHAIRMAN. Objection is heard.

Mr. OBEY. Mr. Chairman, if I could reserve the right to object, I would be happy to give the gentleman 2 minutes to speak if I could be assured that we will still have the right to close.

Mr. KOLBE. If the gentleman will yield, that was the unanimous-consent request, 2 minutes on each side.

The CHAIRMAN. The gentleman from Wisconsin would still have the right to close if there was an extension on both sides of 2 minutes.

Mr. OBEY. Mr. Chairman, if that is the case, then I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I yield my 2 minutes to the gentleman from Illinois [Mr. CRANE], the distinguished chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. CRANE. I thank my colleague for yielding this time, and I want to thank my distinguished colleague from the neighboring State of Wisconsin for accommodating us.

Mr. Chairman, I rise today in support of the amendment offered by my colleague, the gentleman from Arizona [Mr. KOLBE], to strike section 421 from the bill. I am greatly concerned that section 421 would force an independent government agency to turn down the NEC computer in question, even though neither the Department of Commerce nor the International Trade Commission has made any formal findings of dumping and injury, and in fact has not initiated any formal investigation, as required by statute and by international law, to impose antidumping duties.

Clearly we must enforce our antidumping laws to prevent unfair trading. However, section 421 would improperly use the appropriations process to chill what could be a legitimate procurement that does not involve dumping. It is impossible for Congress to determine now whether the procurement in question violates the antidumping statute. That is a matter for the Commerce Department and the International Trade Commission to determine, using statutorily mandated procedures. Only when they have made this determination can we begin to consider the effects on the procurement.

In addition, I am greatly concerned that such language could violate our obligations under the WTO antidumping agreement, which provides that no specific action against dumping of exports from another party may be taken except in accordance with the agreement, and does not authorize punitive measures such as disqualification from government procurement.

In addition, I am concerned that the amendment could violate the Government Procurement Agreement, which provides that each party shall provide national treatment to suppliers of other parties. The Japanese government has already notified our government of their concerns that we would be violating our international obligations if this provision is adopted.

The United States is the largest target of foreign antidumping actions. We are vulnerable. What we do to other countries will be done to us. Accordingly, I would urge all Members to support the Kolbe amendment.

The CHAIRMAN. The gentleman from Wisconsin has 3 minutes remaining.

Mr. OBEY. Mr. Chairman, I yield myself 2 of those minutes.

Mr. Chairman, I simply want to repeat again, there is no violation of law and there is no violation of our trade

agreements by the action taken by the committee. NCAR is not an agency of the Government. Article 3 of the Government Procurement Agreement does not apply to the proposed legislation because article 1 of the agreement states that the agreement covers procurements only by those entities listed in the agreement's appendices.

□ 1845

Neither ENCAR nor UCAR are among those listed entities. But having put that technical argument aside, I simply want to make this point. The only argument that is being made by the folks who are opposed to the committee action is that it is one of process.

As the gentleman from New York [Mr. HOUGHTON] has pointed out, we have lawyers on both sides of the argument making opposite arguments, and they will continue to do so. Our job is to cut through that and recognize that tonight what is important is that we defend the national interest of the United States. I repeat, we are not making a judgment that this supercomputer cannot be bought and we are not making a judgment that it is being dumped, although it is pretty hard to see why it is not when they are offering to provide a supercomputer worth $90 to $110 million for a $35 million price because they want so badly to bust into the United States market.

But I simply want to repeat, despite that fact, we are not determining that this computer at this point is being dumped. All we are saying is that if the Commerce Department reaches that conclusion, then, because this industry is so crucial, not only to the defense capability of this country but to the long-term economic viability of this country, it is important that we not allow legalisms to bind us to a requirement that if the Japanese corporation is willing to eat another $70 or $100 million tariff, that they would be allowed to use trade agreements to destroy our economy. That is all we are saying.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate the gentleman yielding. He has done so in order for me to have a colloquy with the gentleman from Arizona [Mr. KOLBE].

Mr. Chairman, I very much appreciate the cooperation of the gentleman from Wisconsin [Mr. OBEY] in that regard.

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

Mr. LEWIS of California. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I would just ask the gentleman from California [Mr. LEWIS] to enter into a colloquy.

I think the gentleman has heard the very legitimate concerns that have been expressed about the possibility of antidumping. The gentleman has also heard the concerns on this side about the possible violations of law that may be involved here on the possible changes to our law.

I am just wondering if the gentleman can assure me that if this issue gets into the conference that this will be considered very carefully in the context of what might be done by the Senate and with the debate that has taken place here today.

Mr. LEWIS of California. Reclaiming my time, I can say to the gentleman we have had a very thorough discussion in our full committee and here on the House floor. There is no question that the gentleman from Wisconsin [Mr. OBEY] has a serious point that he wants to make. He has made that point very well. Between now and conference, there is not any question that we will continue to consider the result of this and it will be discussed thoroughly in conference.

Mr. KOLBE. Mr. Chairman, with that proviso, I ask unanimous consent to withdraw the amendment.

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

There was no objection.

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today after 7:15 p.m., on account of personal reasons.

Mr. COLEMAN (at the request of Mr. GEPHARDT) for June 25 and 26, on account of family illness.

Mr. FLAKE (at the request of Mr. GEPHARDT) for today after 6 p.m. and on June 27, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. OBEY) to revise and extend their remarks and include extraneous material:)

Mrs. COLLINS of Illinois, for 5 minutes, today.

Mr. GEPHARDT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. PETE GEREN of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. DIAZ-BALART, for 5 minutes each day, today and on June 27.

Mr. METCALF, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. OBEY) and to include extraneous matter:)

Mr. TORRICELLI.
Mr. MORAN.
Mr. PETERSON of Minnesota.
Mr. MATSUI.
Mr. HAMILTON.
Ms. DELAURO.
Mr. OBEY
Mr. DIXON.
Mr. FRANK of Massachusetts.
Mr. DINGELL.
Mrs. THURMAN.
Mr. REED.
Mr. FALEOMAVAEGA.
Mr. RANGEL.
Mrs. MALONEY.
Mr. BARCIA.
Mr. TOWNS.
Mr. ORTIZ.
Mr. JOHNSON of South Dakota.
Mr. PAYNE of New Jersey.
Mr. WYNN.
Mr. CLAY.
Ms. KAPTUR.
Mr. SCOTT.
Mr. PALLONE.

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. PORTMAN.
Mr. FAWELL.
Mr. TALENT.
Mr. BATEMAN.
Mr. MCCOLLUM.
Mr. DORNAN.
Mr. TATE.
Mr. GILMAN.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1903. An act to designate the bridge, estimated to be completed in the year 2000, that replaces the bridge on Missouri highway 74 spanning from East Cape Girardeau, Illinois, to Cape Girardeau, Missouri, as the ''Bill Emerson Memorial Bridge,'' and for other purposes.