

crimes—but they have never been formally charged and brought to trial in Indonesia or East Timor. They continue to operate with impunity in West Timor and throughout Indonesia.

This is unconscionable. We have shown nothing but patience, and they have simply done nothing. The time for sitting back and waiting is over, and we must now take decisive and concrete steps to ensure that justice is done.

This legislation I am introducing today is carefully modeled after similar legislation that established the International War Crimes Tribunals for Iraq, the Balkans, and Rwanda. It consists of three parts:

First, it calls upon the Bush Administration to endorse and support the establishment of an international criminal tribunal to prosecute all individuals who are responsible for egregious human rights abuses in East Timor. These abuses include crimes against humanity in East Timor, including systematic murder, rape, and terrorism, the unlawful use of force, and crimes against United Nations personnel deployed in East Timor and in the refugee camps of West Timor.

Second, it calls upon the Bush Administration to direct pertinent U.S. Government agencies to begin collecting and organizing the necessary evidence and information needed to indict and prosecute these war criminals before an international tribunal.

Finally, the legislation calls upon the Bush Administration to work actively and urgently within the international community to adopt a UN Security Council resolution establishing an international tribunal on East Timor.

In the course of human events, Mr. President, wherever and whenever conflict has resulted in great bloodshed, human suffering, and destruction, there has been no real peace established without real justice. The people of East Timor deserve peace—and to establish peace, we must first seek justice.

SENATE CONCURRENT RESOLUTION  
10—EXPRESSING THE  
SENSE OF THE SENATE REGARDING  
THE REPUBLIC OF KOREA'S  
UNLAWFUL BAILOUT OF  
HYUNDAI ELECTRONICS

Mr. CRAIG (for himself, Mr. LOTT, Mr. CRAPO, and Mr. BENNETT) submitted the following concurrent resolution; which was referred to the Committee on Finance.

S. CON. RES. 10

Whereas the Government of the Republic of Korea over many years has supplied aid to the Korean semiconductor industry enabling that industry to be the Republic of Korea's leading exporter;

Whereas this assistance has occurred through a coordinated series of government programs and policies, consisting of preferential access to credit, low-interest loans, government grants, preferential tax programs, government inducement of private

sector loans, tariff reductions, and other measures;

Whereas government assistance to the semiconductor industry is part of the preferences, privileges, and support given by the Korean government to corporate conglomerates, known as chaebols, over several decades;

Whereas the policy of providing assistance to chaebols has resulted in trade-distorting spending and capacity expansion and resulted in massive corporate debt;

Whereas in December 1997, the United States, the International Monetary Fund (IMF), other foreign government entities, and a group of international financial institutions assembled an unprecedented \$58,000,000,000 financial package to prevent the Korean economy from declaring bankruptcy;

Whereas as part of that rescue package, the Republic of Korea agreed to put an end to corporate cronyism, and to overhaul the banking and financial sectors;

Whereas Korea also pledged to permit and require banks to run on market principles, to allow and enable bankruptcies and workouts to occur rather than bailouts, and to end subsidies;

Whereas the Republic of Korea agreed to all of these provisions in the Stand-by Arrangement with the IMF dated December 3, 1997;

Whereas section 602 of the Foreign Operations, Export Financing, and Related Agencies Appropriations Act, 1999, as enacted by section 101(d) of Division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277; 112 Stat. 2681-220) specified that the United States would not authorize further IMF payments to Korea unless the Secretary of the Treasury certified that the provisions of the IMF Standby Arrangement were adhered to;

Whereas the Secretary of the Treasury certified to Congress on December 11, 1998, April 5, 1999, and July 2, 1999 that the Stand-by Arrangement was being adhered to, and assured Congress that consultations had been held with the Government of the Republic of Korea in connection with the certifications;

Whereas the Republic of Korea has acceded to the World Trade Organization, and to the Agreement on Subsidies and Countervailing Measures (as defined in section 101(d)(12) of the Uruguay Round Agreements Act);

Whereas the Agreement on Subsidies and Countervailing Measures specifically prohibits export subsidies, and makes actionable other subsidies bestowed upon a specific enterprise that causes adverse effects;

Whereas Hyundai Electronics is a major exporter of semiconductor products from the Republic of Korea to the United States; and

Whereas the Republic of Korea has now engaged in a massive \$2,100,000,000 bailout of Hyundai Electronics which contravenes the commitments the Government of the Republic of Korea made to the IMF, the World Trade Organization and other agreements, and the understandings and certifications made to Congress under the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) believes strongly that the relationship between the United States and Republic of Korea has been and will continue to be harmed significantly by the bailout of a major exporter of products from Korea to the United States;

(2) calls on the Republic of Korea to immediately end the bailout of Hyundai Electronics;

(3) calls on the Republic of Korea to comply immediately with its commitments to the IMF, with its trade agreements, and with

the assurances it made to the Secretary of the Treasury;

(4) calls on the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative to take immediately such action as is necessary to assure that the unlawful bailout by the Republic of Korea is stopped, and its effects fully offset or reversed; and

(5) calls on the United States Trade Representative and the Secretary of Commerce to monitor and report to Congress on steps that have been taken to end this bailout and reverse its effects.

Mr. CRAIG. Mr. President, I rise to introduce a concurrent resolution expressing the sense of the Senate regarding the Republic of Korea's unlawful bailout of Hyundai Electronics, an issue of great concern to me and, I believe, should be of concern to the Senate. I rise to introduce this resolution with my colleagues Mr. LOTT, Mr. CRAPO, and Mr. BENNETT.

In 1997, the International Monetary Fund, in cooperation with the United States and a group of financial institutions, put together an unprecedented \$58 billion financial package to prevent the Korean economy from bankruptcy. As a part of that rescue package, the Korean government agreed to implement specific reforms aimed at addressing the problems that had led to the economic crisis in the first place.

In recent weeks, the Korean government has decided to break completely with the policies that it has adopted over the past three years and is promising to provide a \$2.1 billion bailout of Hyundai Electronics. This action not only runs contrary to the stated policy of the Korean government but also flies in the face of the government's clear assurances that this sort of wholesale bailout would not happen.

This resolution is necessary because the present actions of the Korean government are a flagrant violation of Korea's international commitments. The Hyundai bailout violates Korea's International Monetary Fund Agreement; the World Trade Organization Agreement on Subsidies and Countervailing Measures; U.S. legislation to stop subsidies to the semiconductor industry in Korea; Section 301 of the U.S. trade laws, and U.S. countervailing duty laws. This unlawful and unwise bailout must be stopped.

The conditions of the IMF Agreement are clear. The corporate governance provision of the IMF Agreement required Korea to end government-directed lending companies; to stop government subsidized support or tax privileges to bail out individual companies; to reduce the high debt-to-equity ratios of corporations; to reduce mutual guarantees within conglomerates; and to permit Korean bankruptcy laws to operate without interference from the government.

The government's special waiver of the debt ceiling for Hyundai Electronic is a violation of Korea's commitment not to interfere in the lending practices of private banks and not to provide subsidies. The audacious Korean

government announcement on January 3, 2001 dropped every pretense of legitimacy by notifying the intend to provide for the outright bailout of Hyundai. In a press statement, the government announced that the Korean Development Bank, a Korean government agency, would purchase \$2.1 billion of Hyundai Electronic corporate bonds over the next twelve months. The move was clearly aimed at keeping Hyundai from defaulting on its massive debt. This action is outrageous and demands the immediate attention of the Korean government as well as Congress and the Administration.

The bailout violates Korea commitments under the World Trade Organization Agreement on Subsidies and Countervailing Measures. Korea's assistance to Hyundai Electronics, including the purchase of Hyundai's corporate bonds, the waiver of the bank lending limitations, and the increase in the limits on export loans, are all violative of Korea's SCM commitments, and are subject to WTO dispute settlement challenge. The assistance to Hyundai is a prohibited Export Subsidy, and meets the Adverse Effects or "injury" test.

This bailout violates the conditions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, Public Law 105-277. Section 602 required that the U.S. Secretary of the Treasury certify that Korea was in compliance with its IMF Stand-By Arrangement provisions, including those I mentioned earlier, and that no IMF funds were being used to provide assistance to the semiconductor industry, among others. In enacting this provision, the Congress acknowledged the risk that, in the midst of the financial crisis, the Korean government would continue to attempt to keep non-viable companies afloat through directed lending and subsidies. The purpose of the provision was to create an enforcement mechanism for the IMF reform provisions, by providing for the withholding of U.S. support for further financial assistance to Korea, if the government violated the provisions of Section 602.

The Treasury Secretary made several certifications pursuant to Section 602, making them prior to each remaining disbursement of IMF loans to Korea. In these certifications, Secretary Rubin certified to Congress that Korea was implementing the reforms that it had agreed to in its IMF loan agreement and also that IMF funds were not being used to provide subsidies to the semiconductor industry. In recent weeks, the Korean government has violated both the letter and the spirit of Section 602, directly frustrating Congressional intent. The Korea government has said that it will not make any further draws on the stand-by credits from the IMF, so the U.S. government does not have the leverage of threatening to stop future loan disbursements under the current IMF program. In sum, they have taken American tax dollars and run, without fulfilling the

commitments they made. It's an outrage.

The assistance to Hyundai Electronics is a subsidy under the U.S. countervailing duty law. The benefits received by Hyundai under the Korea government's bailout program constitute a countervailable subsidy under the U.S. countervailing duty law. Section 771(5) provides that a subsidy is one that "provides a financial contribution . . . to a person and a benefit is thereby conferred." This financial contribution can include "the direct transfer of funds, such as grants, loans, and equity infusions, or the potential direct transfer of funds or liabilities, such as loan guarantees." The statute also specifies that the determination of whether a subsidy exists shall be made "without regard to whether the subsidy is provided directly or indirectly on the manufacture, production, or export or merchandise." Thus, a subsidy can exist even if the government does not directly provide the subsidy, but directs a bank to provide the subsidy.

The statute also specifies that a benefit "shall normally be treated as conferred where there is a benefit to the recipient." In the case of a loan, there is a benefit to a recipient "if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market," 19 U.S.C. 1677(5)(E)(ii). Thus, the Commerce Department, when determining whether a program is a countervailable subsidy, looks to the benefit to the recipient rather than the cost to the provider of the subsidy.

In the case of Hyundai Electronics, the company would not be able to obtain any loans "in the market" absent government intervention. Private concerns are reluctantly willing to roll over Hyundai's debt only because the government is involved.

In short, because of the preferential financing Hyundai receives under these government actions, and because of the very substantial size of the loans in question, Commerce's investigation of these programs in the course of a countervailing duty proceeding would be almost certain to find substantial subsidy margins.

In conclusion, Mr. President, I am extremely disappointed in Korea's actions in regards to this matter. It is clear that Korea is purposefully circumventing the will and intent as well as the spirit and letter of the IMF agreement the World Trade Organization Agreement on Subsidies and Countervailing Measures, U.S. legislation to stop subsidies to the semiconductor industry in Korea, and U.S. countervailing duty laws.

Korea must not be permitted to backtrack on the reforms it made that were requirements for IMF and U.S. assistance, just because it is no longer drawing on those loans. The very purpose of the reform measure was to put Korea on stable financial footing. Now

Korea is unraveling its reform measures, in order to prevent a failing company from going bankrupt. Such actions cannot be overlooked, but should be dealt within the strongest possible manner.

I am very disappointed that the Korean government has acted in bad faith with respect to its commitments. The U.S. Administration and the U.S. Congress must work together to find an effective and just response to Korea's action. This bailout undermines Korea's credibility in international financial circles and threatens the bilateral economic relationship between the United States and Korea. It must be stopped.

Mr. President, I would not come to the floor and speak in these terms, nor would I have gained the sponsorship by key leaders here in the Senate that I have, if we did not think this was important. American taxpayers willing to help stabilize the world economy and willing to help stabilize its friends in the world by contributing \$58 billion for those purposes, in working with the International Monetary Fund and the World Trade Organization, should not now be ignored, nor should what we have said be ignored in this process.

With that, I introduce this Senate concurrent resolution speaking to that very issue.

---

SENATE RESOLUTION 19—TO EXPRESS THE SENSE OF THE SENATE THAT THE FEDERAL INVESTMENT IN BIOMEDICAL RESEARCH SHOULD BE INCREASED BY \$3,400,000,000 IN FISCAL YEAR 2002

Mr. SPECTER (for himself, Mr. HARKIN, Ms. MIKULSKI, Mr. FRIST, Mr. SCHUMER, Mr. SARBANES, Ms. COLLINS, Mr. DEWINE, Mr. HUTCHINSON, Mr. SNOWE, Mr. COCHRAN, Mr. SANTORUM, and Mrs. MURRAY) submitted the following resolution; which was referred to the Committee on Appropriations.

S. RES. 19

Whereas past investments in biomedical research have resulted in better health, an improved quality of life for all Americans and a reduction in national health care expenditures;

Whereas the Nation's commitment to biomedical research has expanded the base of scientific knowledge about health and disease and revolutionized the practice of medicine;

Whereas the Federal Government represents the single largest contribution to biomedical research conducted in the United States;

Whereas biomedical research continues to play a vital role in the growth of this Nation's biotechnology, medical device, and pharmaceutical industries;

Whereas the origin of many of the new drugs and medical devices currently in use is based in biomedical research supported by the National Institutes of Health;

Whereas women have traditionally been under represented in medical research protocols, yet are severely affected by diseases including breast cancer, claimed the lives of 40,800 women last year; ovarian cancer