Treaty with Ireland on Mutual Legal Assistance in Criminal Matters—Treaty Document No. 107–9;

Agreement with Russian Federation concerning Polar Bear Population—Treaty Document No. 107–10;

Second Protocol Amending the Extradition Treaty with Canada—Treaty Document No. 107–11.

I further ask that the treaty, agreement, and protocol be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

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

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 18, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, fraud, and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking the testimony or statements of persons; providing documents, records, and articles of evidence; locating or identifying persons; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings; and such other assistance as may be agreed.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 11, 2002.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population done at Washington on October 16, 2000 (the ''U.S.-Russia Agreement''). I also transmit, for the information of the Senate, the report of the Department of State with respect to that Agreement.

The U.S.-Russia Agreement provides legal protections for this population of polar bears in addition to those found in the Agreement on the Conservation of Polar Bears done at Oslo, November 13, 1973 (the ''1973 Agreement''), which was a significant, early step in the international conservation of polar bears. The 1973 Agreement is a multilateral treaty to which the United States and Russia are parties. (The other parties are Norway, Canada, and Denmark.) The 1973 Agreement provides authority for the maintenance of a subsistence harvest of polar bears and provides for habitat conservation.

The proposed U.S.-Russia Agreement, which would operate as a free-standing treaty separate from the 1973 Agreement, is the culmination of an 8-year effort. The U.S.-Russia Agreement builds on the 1973 Agreement to establish a common legal, scientific, and administrative frame work for the conservation and management of the Alaska-Chukotka polar bear population, which is shared by the United States and the Russian Federation. For example, the U.S.-Russia Agreement provides a definition of ''sustainable harvest'' that will help the United States and Russia to implement polar bear conservation measures while safeguarding the interests of native people. In addition, the U.S.-Russia Agreement establishes the U.S.-Russia Polar Bear Commission, which would function as the bilateral managing authority to make scientific determinations, establish taking limits, and carry out other responsibilities under the terms of the U.S.-Russia Agreement. The proposed U.S.-Russia Agreement would strengthen the conservation of our shared polar bear population through a coordinated sustainable harvest management program.

Early ratification of the U.S.-Russia Agreement by the United States will reinforce our leadership role in international conservation of marine mammals and will encourage similar conservation action by other countries. I recommend that the Senate give early and favorable consideration to this Agreement and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 11, 2002.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Second Protocol Amending the Treaty on Extradition Between the Government of the United States of America and the Government of Canada, as amended, signed at Ottawa on January 12, 2001. In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Second Protocol. As the report explains, the Second Protocol will not require implementing legislation.

The Second Protocol amends the Extradition Treaty Between the United States of America and Canada, signed at Washington on December 3, 1971, as amended by an Exchange of Notes of June 28 and July 9, 1974, and by a Protocol signed at Ottawa on January 11, 1988.

The Second Protocol, upon entry into force, will enhance cooperation between the law enforcement communities of both nations. The Second Protocol incorporates into the U.S.-Canada Extradition Treaty a provision on temporary surrender of persons that is a standard provision in more recent U.S. bilateral extradition treaties. It also provides for new authentication requirements for documentary evidence, which should streamline the processing of extradition requests.

I recommend that the Senate give early and favorable consideration to the Second Protocol and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 11, 2002.*

MEASURE READ THE FIRST TIME—H.R. 4635

Mr. REID. Madam President, it is my understanding that H.R. 4635 is at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

Mr. REID. Madam President, I now ask for its second reading, but I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

MEASURE READ THE FIRST TIME—H.R. 5017

Mr. REID. Madam President, I understand H.R. 5017 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 5017) to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

Mr. REID. Madam President, I now ask for its second reading, but I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

ORDER FOR RECESS

Mr. REID. Madam President, I ask unanimous consent that following the remarks of Senator SHELBY, the Senate stand in recess under the order previously entered by the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SECURITIES FRAUD

Mr. SHELBY. Madam President, over the course of the last 6 months, the longstanding, systemic fraudulent activities of numerous corporations have been exposed in America and around the world. This fraud has cost American investors massive amounts, perhaps hundreds of billions of dollars, perhaps more. Beyond the tangible losses, investor confidence in the integrity of our capital markets has also taken a tremendous hit, as the Presiding Officer knows.

As we move forward to address the shortcomings in the oversight of our financial markets, we must carefully consider the true impact of what has occurred. Thousands of people have lost billions of dollars. Thousands of people have lost jobs. Millions of people have lost or are losing faith in our capital markets every day.

The fact is, none of this is made any easier because of the manner in which this has happened. Americans don't feel better because the mugging took place in the boardroom rather than the back alley. In many ways, what has happened is even worse. Because of the sheer size and number of participants in our markets, the corporate scams have been much more efficient and much more effective than the average boiler room fraud.

The bottom line is this: Real people are facing tremendous losses, and confidence in our system is eroding.

I believe we must address this situation with concrete measures. Fraud, even if committed by white-collar individuals—indeed, especially if committed by white-collar individuals—needs to be severely punished with criminal sanctions.

I commend the efforts to create new, tough penalties for people who commit fraud through our securities markets. I supported that, as most of the people in the Senate did.

Additionally, I believe there is more that we can do to stop or slow down the kinds of conduct that lead to situations where investing Americans are swindled out of hundreds of billions of dollars. The fact is, in one key area, the appropriate disincentives for participating in securities fraud are just not in place today.

Since 1994, after the Supreme Court ruling in the Central Bank case, there has been no liability for secondary actors who aid and abet securities fraud in America. Think about that. Since 1994, there has been no liability for secondary actors who aid and abet securities fraud. In effect, the decision in the Central Bank case led to legions of accountants, lawyers, and other security specialists who play a vital yet behind-the-scenes role in securities transactions, off the hook for down-the-line fraud in the sale of securities.

Think of it like this: The guys who procure the getaway car before the robbery, tune it up, fill it up with gas, put air in the tires, and sometimes even drive it away, face no financial liability for their involvement.

Does that make any sense? Not to me. I believe not to the majority of the Senate, if we could get a vote on the Shelby-Durbin amendment. And we will someday because this is not an issue that is going to go away.

When attorneys, accounting firms, and other securities professionals know that assisting securities fraud is nothing to worry about, as it is today, there is no wonder there has been a proliferation of audit failures, restatements, Enrons, Global Crossings, WorldComs, and many more to come. Civil and criminal penalties are important and necessary, but they are not sufficient. They serve a separate but important purpose of punishing fraudulent behavior. But they do nothing to ensure that investors, the victims, have an opportunity to seek financial redress. Civil liability supplements criminal and civil penalties and acts as a further disincentive to engage in or assist fraudulent activities.

Here are a couple of basic questions we all need to answer. Why shouldn't investors—that is, so many million in America—be able to recover losses from aiders and abettors of securities fraud? What public interest do we serve by inoculating aiders and abettors of securities fraud from civil liability? Why should this type of tort, this fraud, not give rise to a civil claim, particularly when the loss to the investor and impact on the markets is so great, as it is today?

Investors are intentionally being defrauded. Yet they have no remedy at the moment to seek monetary redress from those who aid and abet these crimes. Why? The answer is, aiders and abettors play a vital role in allowing primary actors to commit fraud. They should, accordingly, be held proportionately liable for their participation in these fraudulent schemes.

I believe for our capital markets to function properly, it is not sufficient that financial information is accurate. The public must also have full faith and confidence that it is honest, that we have integrity there.

Accountants, lawyers, and other securities professionals perform, by design, a gatekeeping function within our securities markets. It is unacceptable, I believe, that those upon whom so many rely—all of us—those whose activities can literally move markets, are not held to the highest standards. Something is wrong.

Forty years ago, at a time when securities transactions were considerably less sophisticated than they are today, Judge Henry Friendly, a distinguished jurist remarked:

> In our complex society, the accountant's certificate and the lawyer's opinion can be instruments for pecuniary lost more potent than the chisel or the crowbar.

Today's staggering shareholder losses demonstrate that over time legal and accounting gimmicks have only grown more potent.

I believe we must create greater disincentives for those who would assist securities fraud. Restoring liability for aiders and abettors of securities fraud should make securities professionals think once, twice, even three times before they put their seal of approval on information sent to the marketplace. Such carefulness will serve investors and our markets well in the future.

Our economy has provided the best material standard of living in the world because our capital markets have traditionally favored clarity over complexity, disclosure over dissembling, and fairness over favoritism. For the sake of future economic growth and prosperity, I believe we must put those principles back into practice.

Senator DURBIN and I are going to continue to pursue our amendment. As I said earlier, this is not going to go away because there are going to be more scheduled. I wish we could have done it on this bill. I yield the floor.

RECESS UNTIL 9:15 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:15 a.m. tomorrow.

Thereupon the Senate, at 6:41 p.m. recessed until Friday, July 12, 2002, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 11, 2002:

FEDERAL RESERVE SYSTEM

BEN S. BERNANKE, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1990, VICE EDWARD W. KELLY, JR., RESIGNED.

DONALD L. KOHN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2002, VICE LAURENCE H. MEYER, RESIGNED.

FEDERAL DEPOSIT INSURANCE CORPORATION

JOHN M. REICH, OF VIRGINIA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION, VICE ANDREW C. HOVE, JR.

NATIONAL TRANSPORTATION SAFETY BOARD

RICHARD F. HEALING, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRED DECEMBER 31, 2006, VICE GEORGE W. BLACK, JR., TERM EXPIRED.

THE JUDICIARY

ALIA M. LUDLUM, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE HARRY LEE HUDSPETH, RETIRED.