our distinguished colleagues were there when this resolution was considered earlier: Senator GRASSLEY, Senator SANTORUM, our current Secretary of Energy, a good friend of mine, Senator Abraham. I also note the distinguished Presiding Officer of the Senate, Senator CHAFEE, was also a cosponsor of that resolution.

I am hopeful we will be able to do as the Senator from Kentucky said and that is apply the same principle to this administration as was applied to the Clinton administration. Every administration ought to be pushing OPEC to increase oil production. We certainly ought to take action when the Saudi oil minister was saying he wasn't even contacted.

I ask unanimous consent to have printed in the RECORD the article from the Reuters news service. The title of this article is ''Saudi Says Not Heard From Bush Over OPEC Oil Cut.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Reuters News Service, Apr. 1, 2004]

SAUDI SAYS NOT HEARD FROM BUSH OVER OPEC OIL CUT

VIENNA, April 1.—Saudi Arabia's foreign minister said on Thursday he had not been contacted by the Bush administration over OPEC's decision on Wednesday to cut crude output by one million barrels per day.

U.S. Energy Secretary Spencer Abraham told a House of Representatives committee on Thursday President George W. Bush had spoken to most of the leaders of OPEC nations about global crude oil supplies and rising prices.

But Abraham declined to respond to a lawmaker's question about whether the president had specifically spoken to Saudi Arabia, the cartel's largest member which led a push this week to cut OPEC production by one million barrels per day in April.

Asked if the United States had expressed its disappointment to him over the cut, Saudi Foreign Minister Prince Saud al-Faisal told reporters:

''I didn't hear this from the Bush administration. I'm hearing it from you that they're disappointed.''

The Bush administration faces growing pressure from Democrats to take action amid record-high U.S. retail gasoline prices.

In the run-up to Wednesday's OPEC meeting, the administration abandoned its so-called ''quiet diplomacy'' and instead said publicly that it was pressuring OPEC to delay a production cut.

Its request was supported by OPEC members Kuwait and the United Arab Emirates, but opposed by Saudi Arabia, a longtime U.S. ally.

Abraham said Bush administration officials may have spoken to Saudi officials in recent weeks.

''We are very disappointed with the decision (OPEC) made yesterday and obviously are evaluating what we might'' do, Abraham added.

U.S. crude fell 50 cents to $35.26 on Thursday after losing 1.4 percent on Wednesday on news of a huge build in U.S. crude inventories and the Saudi foreign minister said earlier the fall justified the cartel's decision.

''As you have seen, since we reduced production in OPEC the price went down. This reflects the veracity of the position that Saudi Arabia has taken that there is an excess capacity on the market rather than shortages,'' he said.

Mr. WYDEN. Mr. President, I will be back on the floor in the days ahead to talk about this critical question. It seems to me what is coming in this country on this oil issue is a perfect storm. The combination of the fact this administration is unwilling to push OPEC over its production cuts, the fact the Federal Trade Commission is unwilling to do anything about these anticompetitive practices or even investigate this refinery closure in Bakersfield, which has great implications for the west coast, all of these factors are coming together to create what I believe is a perfect storm for the gasoline consumer in this country. Given that consumer spending is what is driving our economy right now, we cannot afford to have these high gasoline prices continue or, as I fear, escalate to $3 a gallon.

We will continue to focus on the question of the Strategic Petroleum Reserve, swiping oil out of the private sector and squirreling it away into the Strategic Petroleum Reserve at a time when it already has a very high level and national security questions are being addressed. But that is not the focus of my comments today. The focus of my comments today is every Member of the Congress ought to be very troubled when the Saudi Foreign Minister says he wasn't contacted by the administration over these production cuts.

We ought to do as was done in 2000 when the Senate, led by a number of our distinguished colleagues on the other side of the aisle who moved ahead on a resolution to boost oil production by OPEC. We ought to do the same now and stand up for the American consumer.

I yield the floor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3010. Mr. MCCONNELL (for Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL)) proposed an amendment to the bill H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

TEXT OF AMENDMENTS

SA 3010. Mr. MCCONNELL (for Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL)) proposed an amendment to the bill H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the ''Standards Development Organization Advancement Act of 2003''.

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103–42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A–119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A–119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and

periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 103. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

''(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

''(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998. The term 'standards development organization' shall not, for purposes of this Act, include the parties participating in the standards development organization.

''(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

''(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998.''; and

(2) by adding at the end the following:

''(c) The term 'standards development activity' excludes the following activities:

''(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

''(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

''(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.''.

SEC. 104. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking ''of any person in making or performing a contract to carry out a joint venture shall'' and inserting the following: ''of—

''(1) any person in making or performing a contract to carry out a joint venture, or

''(2) a standards development organization while engaged in a standards development activity,

shall''.

SEC. 105. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting '', or for a standards development activity engaged in by a standards development organization against which such claim is made'' after ''joint venture'',

(2) in subsection (e)—

(A) by inserting '', or of a standards development activity engaged in by a standards development organization'' before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

''(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

''(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 106. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting '', or of a standards development activity engaged in by a standards development organization'' after ''joint venture'', and

(2) by adding at the end the following:

''(c) Subsections (a) and (b) shall not apply with respect to any person who—

''(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 107. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting ''(1)'' after ''(a)'', and

(C) by adding at the end the following:

''(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

''(A) the name and principal place of business of the standards development organization, and

''(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.'',

(2) in subsection (b)—

(A) in the 1st sentence by inserting '', or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms'' before the period at the end, and

(B) in the last sentence by inserting ''or available to such organization, as the case may be'' before the period,

(3) in subsection (d)(2) by inserting '', or the standards development activity,'' after ''venture'',

(4) in subsection (e)—

(A) by striking ''person who'' and inserting ''person or standards development organization that'', and

(B) by inserting ''or any standards development organization'' after ''person'' the last place it appears, and

(5) in subsection (g)(1) by inserting ''or standards development organization'' after ''person''.

SEC. 108. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this title, including the existing standard under which the conduct of the parties is reviewed, regardless of the standard under which the conduct of the standards development organizations in which they participate are reviewed, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the title.

TITLE II—ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''Antitrust Criminal Penalty Enhancement and Reform Act of 2003''.

Subtitle A—Antitrust Enforcement Enhancements and Cooperation Incentives

SEC. 211. SUNSET.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 211 through 214 shall cease to have effect 5 years after the date of enactment of this Act.

(b) EXCEPTION.—With respect to an applicant who has entered into an antitrust leniency agreement on or before the date on which the provisions of sections 211 through 214 of this subtitle shall cease to have effect, the provisions of sections 211 through 214 of this subtitle shall continue in effect.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) ANTITRUST DIVISION.—The term ''Antitrust Division'' means the United States Department of Justice Antitrust Division.

(2) ANTITRUST LENIENCY AGREEMENT.—The term ''antitrust leniency agreement,'' or

''agreement,'' means a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement.

(3) ANTITRUST LENIENCY APPLICANT.—The term ''antitrust leniency applicant,'' or ''applicant,'' means, with respect to an antitrust leniency agreement, the person that has entered into the agreement.

(4) CLAIMANT.—The term ''claimant'' means a person or class, that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of the Sherman Act or any similar State law, except that the term does not include a State or a subdivision of a State with respect to a civil action brought to recover damages sustained by the State or subdivision.

(5) COOPERATING INDIVIDUAL.—The term ''cooperating individual'' means, with respect to an antitrust leniency agreement, a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement.

(6) PERSON.—The term ''person'' has the meaning given it in subsection (a) of the first section of the Clayton Act.

SEC. 213. LIMITATION ON RECOVERY.

(a) IN GENERAL.—Subject to subsection (d), in any civil action alleging a violation of section 1 or 3 of the Sherman Act, or alleging a violation of any similar State law, based on conduct covered by a currently effective antitrust leniency agreement, the amount of damages recovered by or on behalf of a claimant from an antitrust leniency applicant who satisfies the requirements of subsection (b), together with the amounts so recovered from cooperating individuals who satisfy such requirements, shall not exceed that portion of the actual damages sustained by such claimant which is attributable to the commerce done by the applicant in the goods or services affected by the violation.

(b) REQUIREMENTS.—Subject to subsection (c), an antitrust leniency applicant or cooperating individual satisfies the requirements of this subsection with respect to a civil action described in subsection (a) if the court in which the civil action is brought determines, after considering any appropriate pleadings from the claimant, that the applicant or cooperating individual, as the case may be, has provided satisfactory cooperation to the claimant with respect to the civil action, which cooperation shall include—

(1) providing a full account to the claimant of all facts known to the applicant or cooperating individual, as the case may be, that are potentially relevant to the civil action;

(2) furnishing all documents or other items potentially relevant to the civil action that are in the possession, custody, or control of the applicant or cooperating individual, as the case may be, wherever they are located; and

(3)(A) in the case of a cooperating individual—

(i) making himself or herself available for such interviews, depositions, or testimony in connection with the civil action as the claimant may reasonably require; and

(ii) responding completely and truthfully, without making any attempt either falsely to protect or falsely to implicate any person or entity, and without intentionally withholding any potentially relevant information, to all questions asked by the claimant in interviews, depositions, trials, or any other court proceedings in connection with the civil action; or

(B) in the case of an antitrust leniency applicant, using its best efforts to secure and facilitate from cooperating individuals covered by the agreement the cooperation described in clauses (i) and (ii) and subparagraph (A).

(c) TIMELINESS.—If the initial contact by the antitrust leniency applicant with the Antitrust Division regarding conduct covered by the antitrust leniency agreement occurs after a State, or subdivision of a State, has issued compulsory process in connection with an investigation of allegations of a violation of section 1 or 3 of the Sherman Act or any similar State law based on conduct covered by the antitrust leniency agreement or after a civil action described in subsection (a) has been filed, then the court shall consider, in making the determination concerning satisfactory cooperation described in subsection (b), the timeliness of the applicant's initial cooperation with the claimant.

(d) CONTINUATION.—Nothing in this section shall be construed to modify, impair, or supersede the provisions of sections 4, 4A, and 4C of the Clayton Act relating to the recovery of costs of suit, including a reasonable attorney's fee, and interest on damages, to the extent that such recovery is authorized by such sections.

SEC. 214. RIGHTS, AUTHORITIES, AND LIABILITIES NOT AFFECTED.

Nothing in this subtitle shall be construed to—

(1) affect the rights of the Antitrust Division to seek a stay or protective order in a civil action based on conduct covered by an antitrust leniency agreement to prevent the cooperation described in section 213(b) from impairing or impeding the investigation or prosecution by the Antitrust Division of conduct covered by the agreement;

(2) create any right to challenge any decision by the Antitrust Division with respect to an antitrust leniency agreement; or

(3) affect, in any way, the joint and several liability of any party to a civil action described in section 213(a), other than that of the antitrust leniency applicant and cooperating individuals as provided in section 213(a) of this title.

SEC. 215. INCREASED PENALTIES FOR ANTITRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(c) OTHER RESTRAINTS OF TRADE.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

Subtitle B—Tunney Act Reform

SEC. 221. PUBLIC INTEREST DETERMINATION.

(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the purpose of the Tunney Act was to ensure that the entry of antitrust consent judgments is in the public interest; and

(B) it would misconstrue the meaning and Congressional intent in enacting the Tunney Act to limit the discretion of district courts to review antitrust consent judgments solely to determining whether entry of those consent judgments would make a ''mockery of the judicial function''.

(2) PURPOSES.—The purpose of this section is to effectuate the original Congressional intent in enacting the Tunney Act and to ensure that United States settlements of civil antitrust suits are in the public interest.

(b) PUBLIC INTEREST DETERMINATION.—Section 5 of the Clayton Act (15 U.S.C. 16) is amended—

(1) in subsection (d), by inserting at the end the following: ''Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments.'';

(2) in subsection (e)—

(A) in the matter before paragraph (1), by—

(i) striking ''court may'' and inserting ''court shall''; and

(ii) inserting ''(1)'' before ''Before''; and

(B) striking paragraphs (1) and (2) and inserting the following:

''(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

''(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

''(2) Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.''; and

(3) in subsection (g), by inserting ''by any officer, director, employee, or agent of such defendant'' before '', or other person''.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on April 2, 2004, at 9:30 a.m., in open and closed session to receive testimony on the Department of Defense Counter Narcotics Program in review of the Defense authorization request for fiscal year 2005.

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

ORDER OF PROCEDURE—S. 2207

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, with respect to the previously filed cloture motion, I ask unanimous consent that the live quorum under rule XXII be waived, and further that notwithstanding rule XXII the vote on the motion to invoke cloture occur at 2:15 on Wednesday, April 7.