

SEC. 902. REQUIREMENTS FOR WAIVERS.

(a) PUBLIC INTEREST WAIVER UNDER BUY AMERICAN ACT.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended by adding at the end the following new subsection (e):

“(e) LIMITATION ON PUBLIC INTEREST WAIVER UNDER BUY AMERICAN ACT.—A determination under section 2(a) of the Buy American Act (41 U.S.C. 10a(a)) that it is not in the public interest to enter into a contract in accordance with such Act may not be made after a notice of solicitation of offers for the contract is published in accordance with this section and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).”.

(b) REQUIREMENTS UNDER BUY AMERICAN ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

“SEC. 44. REQUIREMENTS UNDER BUY AMERICAN ACT.

“(a) USE OUTSIDE THE UNITED STATES.—(1) Section 2(a) of the Buy American Act (41 U.S.C. 10a(a)) shall apply without regard to whether the articles, materials, or supplies to be acquired are for use outside the United States if the articles, materials, or supplies are not needed on an urgent basis or if they are acquired on a regular basis.

“(2) In any case in which the articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis, before entering into a contract an analysis shall be made of the difference in the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies in the United States (including the cost of shipping) and the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies outside the United States (including the cost of shipping).

“(b) DOMESTIC AVAILABILITY.—The head of an executive agency may not make a determination under section 2(a) of the Buy American Act (41 U.S.C. 10a) that an article, material, or supply is not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality, unless the head of that executive agency has conducted a study and, on the basis of such study, determined that—

“(1) domestic production cannot be initiated to meet the procurement needs; and

“(2) a comparable article, material, or supply is not available from a company in the United States.”.

SEC. 903. DUAL-USE TECHNOLOGIES.

The head of an executive agency (as defined in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)) may not enter into a contract, nor permit a subcontract under a contract of the executive agency, with a foreign entity that involves giving the foreign entity plans, manuals, or other information related to a dual-use item or technology on the Commerce Control List unless approval for providing such plans, manuals, or information has been obtained in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Export Administration Regulations (15 C.F.R. part 730 et seq.).

SEC. 904. CLERICAL AMENDMENT.

The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new items:

“Sec. 43. Preference for domestic bidders.

“Sec. 44. Requirements under Buy American Act.”.

SA 3141. Mr. KYL submitted an amendment intended to be proposed by

him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 557, between lines 9 and 10, insert the following:

SEC. 660. SENSE OF CONGRESS REGARDING THE WORLD TRADE ORGANIZATION DECISION ON INTERNET GAMBLING.

(a) FINDINGS.—Congress finds the following:

(1) Gambling through the Internet, which has grown rapidly, opens up the possibility of immediate, individual, 24-hour access in every home to the full range of wagering opportunities on sporting events or casino-like contests.

(2) The number of Internet gambling websites has increased from about 2 dozen to over 2,000 in the last 9 years, with an estimated \$5,000,000,000 wagered over the Internet in 2003 alone.

(3) Internet gambling fosters criminal activity, as up to 90 percent of pathological gamblers commit crimes to pay off their wagering debts.

(4) The Department of State has noted that Internet gambling “represents yet another powerful vehicle for criminals to launder funds from illicit sources as well as to evade taxes” and the chief of the Federal Bureau of Investigation’s Financial Crimes Section has testified that Internet gambling is a “haven for money laundering activities”.

(5) There are Federal and State laws in the United States which restrict Internet gambling services, and these laws are consistent with the World Trade Organization obligations of the United States.

(6) The United States is currently involved in World Trade Organization proceedings in which the nation of Antigua and Barbuda has challenged these laws.

(7) A World Trade Organization panel has ruled, as a result of these proceedings, that the United States must allow access to the United States market by foreign Internet gambling businesses.

(8) The World Trade Organization is likely to authorize Antigua and Barbuda to impose tariffs on products from the United States unless the United States agrees to change its anti-gambling laws.

(9) The United States benefits from participating in international organizations such as the World Trade Organization, but the United States must also be vigilant about protecting American interests when decisions by such organizations encroach upon United States sovereignty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States disagrees with the decision of the World Trade Organization panel regarding the Internet gambling laws of the United States, and

(2) the United States should vigorously defend its right to enact legislation protecting United States interests against organized crime and money laundering and protecting the integrity of United States sporting events.

NOTICES OF HEARINGS/MEETINGS**SUBCOMMITTEE ON FORESTRY, CONSERVATION AND RURAL REVITALIZATION**

Mr. COCHRAN. Mr. President, I announce that the Subcommittee on For-

estry, Conservation and Rural Revitalization of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on May 11, 2004, in SD-628 at 10 a.m. The purpose of this hearing will be to examine conservation programs of the 2002 Farm Bill.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on May 13, 2004, in SD-106 at 10 a.m. The purpose of this hearing will be to conduct a review of the Commodity Futures Trading Commission regulatory issues. Dr. James E. Newsome, Chairman of the Commodity Futures Trading Commission, will testify before the committee.

UNANIMOUS CONSENT AGREEMENT—S. 1637

Mr. FRIST. Mr. President, I ask unanimous consent immediately following the period for morning business on Tuesday, the time until 12 noon be equally divided between the two leaders or their designees prior to the cloture vote on S. 1637, the FSC JOBS bill. I further ask consent that if cloture is invoked, notwithstanding the provisions of rule XXII, the Senate then proceed immediately to a vote in relation to the pending Cantwell amendment, No. 3114, with no amendment in order to the amendment prior to the vote. Further, I ask consent that if a point of order is raised and the motion to waive is subsequently agreed to, then the Cantwell amendment be agreed to.

Mr. REID. That is without any intervening action.

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

ORDERS FOR TUESDAY, MAY 11, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the first half hour under the control of the Democratic leader or his designee, and the second half hour under the control of the majority leader or his designee; provided that following morning business, the Senate proceed to S. 1637, as under the previous order.

I further ask consent that the Senate recess from 12:30 p.m., or upon conclusion of the vote in relation to the Cantwell amendment, until 2:15 p.m. for the weekly party luncheons.

Mr. REID. Mr. President, as happens around here a lot of the time, the real

substance of what we do does not appear out here. What we have done is extremely important. We should be able to finish this bill tomorrow.

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

Mr. FRIST. Mr. President, I appreciate the comments of the assistant Democratic leader. We made real progress over the course of the week-end and have a real understanding of how we will finish the bill in an orderly way. We will be working jointly to see, with the managers of the bill, it is finished tomorrow if at all possible.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume debate on the FSC JOBS bill. The vote on the motion to invoke cloture will be the first vote of the day. That vote will begin at noon. If cloture is invoked, we will then immediately proceed to a vote in relation to the Cantwell amendment regarding unemployment insurance.

Following disposition of the Cantwell amendment, we will continue to work through the remaining germane amendments to the bill. Additional votes, therefore, can be expected during tomorrow's session as we work toward completion of the JOBS bill sometime later tomorrow.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:45 p.m., adjourned until Tuesday, May 11, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 10, 2004:

THE JUDICIARY

THOMAS B. GRIFFITH, OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE PATRICIA M. WALD, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RANDALL M. ASHMORE, 0000
ADAM G. BEARDEN, 0000
SCOTT T. BROWN, 0000
MICHAEL H. BRUMMETT, 0000
DREXEL G. DEFORD JR., 0000
DEAN E. DOERING, 0000
KIRK W. EDENS, 0000
ROBERT R. EDWARDS JR., 0000
LARRY T. EPPLE, 0000
MARK D. EVANS, 0000
KURTIS W. FAUBION, 0000
TIMOTHY L. FITZGERALD, 0000
JOHN A. GRAVES, 0000
D. SCOTT GUERMONPREZ, 0000
JASON T. HALL, 0000
KENNETH A. HILL, 0000
SCOTT J. HILMES, 0000
THOMAS M. HUNTER, 0000
BRIAN K. JEFFERSON, 0000
DAVID W. JOHNSON, 0000
CYNTHIA A. JONES, 0000
JEFFERY F. JONES, 0000
SHOMELA R. LABEE, 0000
HEATHER M. LANDON, 0000
THOMAS A. LERNER, 0000

CRAIG E. MAUCH, 0000
CHARLES J. MCCLLOUD JR., 0000
JOSEPH B. MIRROR, 0000
CATHERINE M. NELSON, 0000
JOHN W. POWERS III, 0000
PATRICK S. REESE, 0000
STEVEN B. REESE, 0000
RICHARD J. REISER, 0000
ELMO J. ROBISON III, 0000
R. BRUCE ROEHM, 0000
RICHARD L. ROWE JR., 0000
PHILIP E. RUTLEDGE II, 0000
HERBERT C. SCOTT, 0000
JAMES A. SPERL, 0000
LUTHER W. SURRATT II, 0000
MARYELLEN M. WINKLER, 0000
JAMES O. WOOTEN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

LOZANO NOEMI ALGARIN, 0000
BARBARA A. ANDERSON, 0000
BERNADETTE A. ANDERSON, 0000
BETTY L. ANDERSON, 0000
JANETTE L. BAGGETT, 0000
SUSAN F. BALL, 0000
SHERI L. BALLARD, 0000
LEOLYN A. BISCHEL, 0000
YOLANDA D. BLEDSOE, 0000
KEVIN J. BOHAN, 0000
KELLY J. BREITBACH, 0000
BEVERLY J. CANFIELD, 0000
KAREN L. CHURCH, 0000
KIMBERLY G. COLTMAN, 0000
DOUGLAS G. COOK, 0000
BARBARA M. COPPEDGE, 0000
MICHAEL A. DEBROECK, 0000
MARLA A. DEJONG, 0000
STEPHEN K. DONALDSON, 0000
TAMMY J. DOYLE, 0000
CARRIE L. DUNNE, 0000
STEVEN P. EBY, 0000
SUSAN M. FEDDY, 0000
DARLENE L. FOLEY, 0000
ANNETTE S. GABLEHOUSE, 0000
DANIEL E. GERKE, 0000
JERRY E. GLATTFELT, 0000
WILLIAM D. *GLOVER, 0000
PENELLOPE F. GORSUCH, 0000
JERRY R. HARVEY JR., 0000
LYNN M. HELMSCHUBA, 0000
LISA M. HOLDER, 0000
RIONDA D. HORNBACK, 0000
MARY F. HORNBACH, 0000
CHERYL Y. HOWARD, 0000
MADELINE D. HOWELL, 0000
KARI W. HOWIE, 0000
SUSANNE M. HUMPHREYS, 0000
ROBERT G. HUNT, 0000
AMELIA L. HUTCHINS, 0000
ELLIYE G. HUTCHISON, 0000
SUSAN JANO, 0000
TRACY J. KAESLIN, 0000
MARISSA KOCH, 0000
GUYLENE D. KRIEGHFLEMING, 0000
JULIE A. LEAL, 0000
LAURA A. LEIGHNER, 0000
JOHN R. LEITNAKER, 0000
LEIGH A. LINDQUIST, 0000
JANET K. LOGAN, 0000
DEBORAH L. MACK, 0000
DEBORAH R. MARCUS, 0000
STEPHEN J. MAZER, 0000
MARY A. MCCUBBINS, 0000
CHARLES M. MCDANALD III, 0000
BERNADETTE T. MCDERMOTT, 0000
WANDA J. MCFATTER, 0000
TERENCE J. MCMANUS, 0000
CAROL L. MCTAGGART, 0000
EDDIE T. MILLER, 0000
JODY D. MILLER, 0000
VIVIAN L. MILLER, 0000
GLENDA M. MITCHELL, 0000
MARGUERITE T. MITCHELL, 0000
ROBYN A. MITCHELL, 0000
DIANA R. MITTELSTEADT, 0000
ANNETTE MOORE, 0000
LOURDES D. R. MOORE, 0000
PATRICIA R. MOORE, 0000
LYNN P. MURPHY, 0000
MARY J. NACHZWEIN, 0000
ELEANOR C. NAZARSMITH, 0000
PATRICK R. ONEILL, 0000
BEVERLY D. OSTERMEYER, 0000
KAREN L. OTTINGER, 0000
BRENDA L. OWEN, 0000
JANE K. PALMISANO, 0000
CHRISTINE M. PETERS, 0000
DEAN L. PRENTICE, 0000
JAMES E. REINEKE, 0000
DOMINICA R. RICE, 0000
DIANE W. ROBINSON, 0000
JULIETTE ROBINSON, 0000
THERESA D. RODRIGUEZ, 0000
JODY L. SABATINO, 0000
KEVIN D. SCHARFF, 0000
LISA A. SCHMIDT, 0000
ROBIN L. SCHULTZE, 0000
KAREN L. SCLAFANI, 0000
JAMES L. SENY, 0000
KIMBERLY D. SEUFERT, 0000
LISA C. SHEEHAN, 0000

RYAN M. SHERCLIFFE, 0000
CHERRI L. SHIREMAN, 0000
WILLIAM L. SHOPP, 0000
LAWRENCE M. SHOVELTON, 0000
CONSTANCE L. * SMITH, 0000
GREGORY A. SMITH, 0000
PATRICIA A. SMITH, 0000
PETER A. SOREENSEN, 0000
CARLA M. SPIKOWSKI, 0000
MARIA STANEK, 0000
SHARION L. STONEULRICH, 0000
JULIA G. STOSHAK, 0000
JAIME E. SUAREZ, 0000
DENISE M. TABARY, 0000
TAMMY R. TENACE, 0000
PATRICIA A. TOLES, 0000
CHERYL SCHARNELL TROCK, 0000
BARBARA A. TUTTELE, 0000
CHRISTINE S. UEBEL, 0000
EUGENE J. J. WALL JR., 0000
JUDY L. WARD, 0000
NINA A. WATSON, 0000
LIDIA P. WEBB, 0000
MARY M. WHITEHEAD, 0000
PATRICK J. WILLIAMS, 0000
JANET L. WILSON, 0000
BARBARA L. WRIGHT, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DONALD W. MYERS, 0000
TERRY W. SWAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

EDWARD L. ALEXSSONSHK, 0000
MATTHEW T. ALLAIRE, 0000
TIMOTHY J. ALLEN, 0000
TRISTAN K. ATKINS, 0000
THOMAS N. BAKER JR., 0000
DARRYL J. BALCAO, 0000
JOHN K. BEERS, 0000
DAVID L. BENSON, 0000
ELLIOTT M. BENSON, 0000
WILLIAM S. BITTNER JR., 0000
GARY A. BLACKHURST, 0000
RICHARD A. BLAIN, 0000
FRANK E. BLAKELY, 0000
STEVEN E. BLANTON, 0000
RICHARD N. BOPP JR., 0000
MARK W. BORRESON, 0000
JEFFREY H. BOTHEN, 0000
JOHN W. BUCKLEY, 0000
THOMAS L. BUCY, 0000
CHARLES D. BULLOCK, 0000
ROGER D. CAGLE, 0000
MICHAEL D. CAREY, 0000
JOHN P. CARPENTER, 0000
STEVEN W. CARTER, 0000
EDWARD P. CASTLE, 0000
CURTIS A. CHAMPELLAN, 0000
JOE F. CHARSAGUA, 0000
MARK L. CHRISTENSEN, 0000
ROBERT R. CHURCH, 0000
EDWARD S. CLARK, 0000
TONY L. CLARK, 0000
TODD C. CONORMON, 0000
ROBERT L. COONEY, 0000
ZANDREW F. COVINGTON, 0000
JOHN R. CRESWELL, 0000
JOHN R. DABROWSKI, 0000
EDWARD L. DAVIS, 0000
BARRY A. DEFOOR, 0000
JAMES E. DICKEY, 0000
JOHN M. DOLAN, 0000
ROBERT T. DOMENICI, 0000
TIMOTHY J. DORN, 0000
JAMES H. DOTY JR., 0000
STEVEN C. EDGE, 0000
RICHARD C. EDWARDS, 0000
DALE N. EGGER, 0000
STEVEN J. ELLIOTT, 0000
JONATHAN E. FARNHAM, 0000
MARK S. FENICE, 0000
HUGO J. FISCHER, 0000
ERIC G. FLAXMAN, 0000
LAWRENCE I. FLEISHMAN, 0000
BURTON K. FRANCO, 0000
EDWARD G. FRIAR, 0000
WILLIAM E. FULMER, 0000
RICHARD S. GEBELIN, 0000
ROBERT T. GILBERT, 0000
ROBERT D. GLOVER, 0000
THEODORE R. GRAHL II, 0000
DARYL A. GRAY, 0000
VERNON E. GREENE JR., 0000
CARY C. GRIFFITH, 0000
ROBIE B. GRIOSBY, 0000
ANDREW M. GRIMALDA, 0000
JAMES G. HAMPTON JR., 0000
GRADY F. HANNAH, 0000
RAYMOND L. HAWKINS JR., 0000
JOHN A. HEATH, 0000
CHRISTOPHER C. HENES, 0000
EDMUND G. HERALD, 0000
RONALD K. HERRINGTON, 0000
CLAY E. HICKS, 0000
LLOYD H. HICKS, 0000
VINCENT T. HITCHCOCK, 0000