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Senate

By Mr. MONDALE (for himself, Mr. BAYH, Mr. CRANSTON, Mr. HUMPHREY, Mr. KENNEDY, Mr. MUSKIE, Mr. NELSON, Mr. ABOUREZK, Mr. BIDEN, Mr. CLARK, Mr. METZENBAUM, Mr. TUNNEY, and Mr. STEVENSON):

S. 4187. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to low and middle income taxpayers, to increase revenues from other tax sources, and to provide increased incentives for expanded investment. Referred to the Committee on Finance.

TAX REFORM AND RELIEF ACT OF 1974

Mr. MONDALE. Mr. President, I am today introducing, on behalf of myself and Senators BAYH, CRANSTON, HUMPHREY, KENNEDY, MUSKIE, and NELSON, together with Senators ABOUREZK, BIDEN, CLARK, METZENBAUM, TUNNEY, and STEVENSON, S. 4187, the Tax Reform and Relief Act of 1974.

We intend to offer this legislation as an amendment to an appropriate bill before the end of the session.

The November election was a clear sign from the American people that they have had enough of excuses and inaction on the economy. We must begin to deal with the simultaneous recession and inflation that has gripped our Nation before this Congress ends. The situation has grown too serious to permit further delay.

The $4 billion tax reform and relief package we propose will enable us to make a start on the kind of action that is needed. It contains the following provisions, which are discussed in more detail in the accompanying fact sheets:

The oil and gas tax sections of the bill approved last week by the House Ways and Means Committee, including a phase-out of the oil depletion allowance by the end of this year, with exceptions for independents until 1979; a tax on windfall profits; and increased taxes on foreign oil operations—$1 billion revenue gain in 1974, $3.3 billion in 1975, and $2.6 billion in 1976.

Repeal of the Domestic International Sales Corporation—DISC—system of tax incentives for exports, effective January 1, 1974—$800 million revenue gain in 1974, $1 billion in 1975.

Strengthening of the minimum tax by reducing the current exclusion from $30,000 to $10,000, and by eliminating the current deduction for regular taxes paid, effective January 1, 1974—$926 million revenue gain in 1974, reduced by $100-200 million as depletion is phased out.

An increase in the investment tax credit from 7 percent to 10 percent for new investment above the average of the 3 preceeding years, effective January 1, 1975—$400 million revenue loss.

Tax relief for low- and middle-income families through an optional $175 tax credit that may be taken instead of the existing $750 personal exemption—$3 billion revenue loss—and a 10 percent "work bonus" for low-income workers with dependent children—$600 million revenue loss.

The revenue gains from the tax reform provisions in the package will fully finance the tax relief for individuals and the increase in the investment tax credit. The package will therefore not be inflationary.

Since the tax reform provisions will raise only $2.6 billion in calendar 1974, tax relief in that year is limited to a $170 optional tax credit—$2.5 billion revenue loss. When the revenue gain from reform increases in 1975, the tax credit will increase to $175, and the work bonus and the higher investment tax credit will begin.

Mr. President, the House Ways and Means Committee has already reported out legislation very similar to that which we propose, and the full House is expected to act in the first week in December. That will leave 3 to 4 weeks for the Senate to act.

The issues in the House bill and in our own are not so complex and unfamiliar that they cannot be considered in this time.

The principal tax reform provisions in our package—phaseout of the oil depletion allowance, repeal of DISC, and a tighter minimum tax—have been thoroughly debated by both Houses of Congress in recent years. The oil and gas tax provisions in our bill and in the House bill are the product of more than a year of House hearings and careful committee consideration.

The individual tax relief provisions in our bill—the $175 optional tax credit and the work bonus—have been extensively discussed in the Senate. An optional tax credit was part of the tax reform and relief package considered in June of this year as an amendment to the debt ceiling bill, and the work bonus passed the Senate a year ago by an overwhelming margin.

The concept of a higher investment tax credit for investment in excess of that of prior years was part of the original Kennedy administration proposal for an investment tax credit in 1961, and it has been discussed frequently in Congress and elsewhere since then.

ECONOMIC CRISIS

Mr. President, we are facing an economic crisis as serious as any since the 1930's.

We are now in the fourth straight quarter of economic decline.

Inflation continues at its worst rate in more than a quarter of a century.

Unemployment may be headed toward its highest level since the depression.

The average worker's real earnings are lower now than they were in 1965.

Consumer confidence is at its lowest level since World War II.

The housing and auto industries have been severely crippled, and the nationwide coal strike threatens many others.

The quadrupling of world oil prices has put an unprecedented strain on the world economic and monetary systems.

The latest Gallup poll shows that 51 percent of Americans believe we are headed for a depression like that of the 1930's.

In the face of this, we simply cannot continue with business as usual.

The tax reform and relief package we propose will not by itself turn the economy around. But it can help ease some of the most serious problems.

The $3.6 billion in tax relief for low- and middle-income workers will compensate in part for the cruel erosion of their incomes by inflation and higher taxes. It can also give a significant boost to lagging consumer demand, and help curb rising unemployment.

The higher investment tax credit for new investment will encourage industry to expand capital investment, thereby giving some support to an important part of the economy, and helping to reduce inflationary shortages and bottlenecks.

This tax relief will be fully financed by increased revenues from some long-overdue tax reforms, so the package will not add to inflationary pressures.

In addition, the revenue raised from the reforms we propose is less likely to depress our already weak economy than a surtax or other increase in taxes on moderate income individuals.

The $3 billion raised from repealing depletion, and the other tax changes affecting the oil industry, will come from profits which are exorbitant by almost any measure, and from an industry which for years has been taxed far less than others.

The increase in the minimum tax will fall overwhelmingly on those making more than $100,000 a year, 402 of whom paid no taxes at all for 1972, and many others of whom paid a lower percentage in taxes than the average worker.

The $1 billion that would be raised from repeal of DISC now represents almost a pure windfall to the corporations that receive it.

More than 90 percent of DISC receipts go to parent corporations whose asset size places them in the top 1 percent of U.S. corporations, and they receive DISC benefits solely by setting up a paper corporation through which their exports are channeled.

When the DISC provisions were enacted in 1971, U.S. exports had been lagging for a number of years because the U.S. dollar was substantially overvalued, making our exports too costly to compete effectively abroad.

Since then, however, two devaluations and the system of flexible exchange rates have fundamentally changed the United States and world trading system, giving a very substantial stimulus to U.S. exports and removing even the slender original rationale for DISC. There is little evidence that the DISC provisions themselves have provided any extra stimulus to exports.

OIL INDUSTRY PROFITS AND TAXES

Mr. President, the oil industry is the most highly profitable and lightly taxed industry in America.

Oil industry profits in the first 9 months of this year reached $10.8 billion, 66 percent higher than a year ago. For U.S. industry as a whole, profits were up only 21 percent.

Standard of Indiana's profits in the first 9 months were up 104 percent, Texaco's 70 percent, Sun Oil's 109 percent, Phillips' 140 percent, Continental's 115 percent, Atlantic Richfield's 112 percent, and Occidental's 360 percent.

Oil industry profits for the first 9 months of this year exceeded the combined total of the profits in the auto industry, the steel industry, banking, drugs, food, containers, electronics, paper, and railroads.

These oil billions have become so stupendous that they are embarrassing to keep and almost impossible to spend.

During this past year, for example, Gulf sought to expand the Nation's energy resources by purchasing Ringling Brothers' Barnum and Bailey Circus and Mobil is demonstrating its commitment to Project Independence by buying up Montgomery Ward. And just last week, it was revealed that Standard of Indiana wants to acquire control of Occidental Petroleum Co. through an exchange of more than $1 billion of stock—one of the largest acquisitions ever attempted.

One reason the profits of these large multinational oil companies are so formidable is that they are only modestly dented by U.S. income taxes. For more than half a century, the oil industry has benefited from tax treatment more favorable than that accorded to any other industry.

The oil depletion allowance, the deduction for intangible drilling expenses, and Treasury rulings allowing foreign oil royalties to be treated as tax credits have worked together to allow the major multinational oil companies to operate virtually free from U.S. income taxes.

In 1973, the 19 largest U.S. oil companies paid only 6.5 percent of their total income in U.S. taxes. That is a smaller percentage than a worker making $8,000 a year pays.

Many of the largest companies paid the smallest percentage. Gulf paid 1.1 percent, Mobil 2.2 percent, Texaco 1.6 percent, and Exxon 5.4 percent.

The changes we propose in oil industry taxation are relatively modest. The depletion allowance would be phased out, but the deduction for intangibles would remain, and the changes in foreign taxation deal only with the most serious abuses.

Mr. President, the oil depletion allowance has for decades been one of the least defensible provisions in the Internal Revenue Code.

Its supporters argue that it is absolutely essential as an incentive for oil exploration and development. Yet in a letter last year to the Senate Interior Committee, Treasury Secretary William Simon said that changes in depletion would have "relatively minor" and "little" effect on development and exploration in the short run, and "no effect" in the long run. In addition, Secretary Simon wrote, depletion costs the Treasury more in lost revenues than it saves consumers in lower prices, with the difference necessarily going to profits, royalties, and dividends.

This letter was written in March of 1973, before the oil price explosion of this past year. With that doubling in prices, whatever slim justification there was for the depletion allowance has been swept away.

When oil was selling for $3.50 a barrel in 1973, depletion was worth about 37 cents a barrel in lower taxes. Now, with oil selling at $7 and $10 a barrel, the incentives from price alone far exceed the incentives depletion has provided in the past. In addition, since the tax benefits from depletion increase with the price, the industry is now getting a double incentive—higher prices and higher depletion allowances.

At some point, we must say that enough is enough. That time has now come.

TAX RELIEF FOR LOW- AND MIDDLE-INCOME WORKERS

While the oil industry has flourished during this past year's inflation and recession, most Americans—and especially those with low- and middle-incomes—have suffered severe hardship.

The average worker's real earnings—after inflation and taxes are nearly 5 percent below a year ago.

And a Labor Department survey earlier this year showed that low- and middel-income families have been hurt more by inflation and higher taxes than those with higher incomes.

Record interest rates and soaring prices for housing have made it almost impossible for the average family to buy a home.

Unemployment, which hits hardest at the poor and unskilled, has reached 6 percent, and most economists predict it will reach 7 percent or more by the spring of 1975.

Those fortunate enough to receive pay increases that merely kept up with inflation have seen a larger share of their income taken away in taxes as they moved into higher brackets. Not only are their dollars worth less, but they are taxed more.

The social security payroll tax—the most rapidly rising tax of all—has placed a growing burden on those with low and middle incomes, while having little impact on the most affluent.

The tax package we propose would provide $3.6 billion in tax relief to those low- and middle-income families who have suffered the most.

Nearly 95 percent of the $3 billion in relief provided by the $175 optional tax credit would go to families making less than $15,000, and the $600 million in relief from the work bonus would go entirely to those making less than $5,600.

These are the families that have been hurt most by inflation and recession, and they would be helped most by the tax relief in our bill.

In addition, since these families must use all or almost all of their income to meet their everyday needs, this relief will be promptly returned to the economy in the form of increased consumer spending, giving a much-needed boost to lagging consumer demand.

Mr. President, it will not be easy to combat effectively the unprecedented combination of recession and inflation which now afflicts our Nation. The American people know this, and I am convinced they are prepared to make whatever sacrifices are necessary.

But there must be equality of sacrifice, and some compassion for those who have already suffered much. The legislation we propose seeks to meet those goals.

Those like the oil industry, who have profited greatly and sacrificed not at all during this past year, are asked to share some of their gains with those who have already borne a heavy burden of sacrifice and deserve some relief. It is little enough to ask in these difficult times.

I ask unanimous consent that a series of fact sheets describing this legislation, and the text of the legislation, be included in the RECORD at this point.

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

S. 4187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Tax Reform and Relief Act of 1974."

TITLE I—TAX RELIEF FOR LOW AND MIDDLE INCOME TAXPAYERS

OPTIONAL CREDIT AGAINST TAX FOR PERSONAL EXEMPTIONS; TAX CREDIT FOR LOW-INCOME WORKERS WITH FAMILIES

SEC. 101. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax), is amended by renumbering section 42 as section 44 and by inserting after section 41 the following new sections:

"SEC. 42. PERSONAL EXEMPTIONS.

"(a) (1) GENERAL RULE.—At the election of the taxpayer, for taxable years beginning after December 31, 1974, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to $175 multiplied by the number of exemptions to which the taxpayer is entitled under section 151. Such credit shall not exceed the tax imposed by this chapter for the taxable year.

"(2) SPECIAL RULE FOR 1974.—At the election of the taxpayer, for taxable years beginning before January 1, 1975, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to $170 multiplied by the number of exemptions to which the taxpayer is entitled under section 151. Such credit shall not exceed the tax imposed by this chapter for the taxable year.

"(b) ELECTION.—An election under subsection (a) for a taxable year may be made at any time before the expiration of the period for filing a claim for a refund or credit of an overpayment of tax for such taxable year and shall be made in such form and manner as the Secretary or his delegate prescribes by regulations.

"(c) DENIAL OF DEDUCTION.—If a taxpayer elects the credit provided by subsection (a) for a taxable year, no deduction shall be allowed under section 151 for any exemption to which he is entitled under such section.

"SEC. 43. TAX CREDIT FOR LOW-INCOME WORKERS WITH FAMILIES

"(a) IN GENERAL.—

"(1) ALLOWANCE OF CREDIT.—There shall be allowed to a taxpayer who is an eligible individual as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage (as determined under paragraph (2)) of the social security taxes imposed on him and his employer with respect to wages received by the taxpayer during that year. In the case of a taxpayer who is married (as determined under section 143) and who files a joint return of tax with his spouse under section 6013 for the taxable year, the amount of the credit allowable by this subsection shall be an amount equal to the applicable percentage (as determined under paragraph (2)) of the social security taxes imposed on him and his spouse, and their employers, with respect to wages received by the taxpayer and his spouse during that year.

"(2) APPLICABLE PERCENTAGE.—The percentage under paragraph (1) applicable to the social security taxes is—

"(A) 86 percent for calendar years 1975 through 1977,

"(B) 83 percent for calendar years 1978 through 1980,

"(C) 80 percent for calendar years 1981 through 1985,

"(D) 78 percent for calendar years 1986 through 2010, and

"(E) 68 percent for calendar years beginning after December 31, 2010.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The amount of the credit allowable to a taxpayer (or to a taxpayer and his spouse in the case of a joint return of tax under section 6013) for any taxable year under subsection (a) shall not exceed an amount equal to 10 percent of so much of the wages (as defined in section 3121(a)) as does not exceed $4,000 received by that individual (or by that individual and his spouse in the case of a joint return of tax) during that year with respect to employment (as defined in section 3121(b) without regard to the exclusion set forth in paragraph (9) of that section.

"(2) REDUCTION FOR ADDITIONAL INCOME.—The amount of the credit allowable under subsection (a) for any taxable year (after the application of paragraph (1)) shall be reduced by one-fourth of the amount by which a taxpayer's income, or, if he is married (as determined under section 143), the total of his income and his spouse's income, for the taxable year exceeds $4,000. For purposes of this paragraph, the term 'income' means adjusted gross income (as defined in section 62 but without regard to paragraph (3) (relating to long-term capital gains)) plus—

"(A) any amount described in section 71 (b) (relating to payments to support minor children), 71(c) (relating to alimony and separate maintenance payments paid as a principal sum paid in installments), or 74(b) (relating to certain prizes and awards),

"(B) any amount excluded from income under section 101 (relating to certain death benefits), 102 (relating to gifts and inheritances), 103 (relating to interest on certain governmental obligations), 105(d) (relating to amounts received under wage continuation accident and health plans), 107 (relating to rental value of parsonages), 112 (relating to certain combat pay of members of the Armed Forces), 113 (relating to mustering-out payments for members of the Armed Forces), 116 (relating to partial exclusion of dividends received by individuals), 117 (relating to scholarships and fellowship grants), 119 (relating to meals or lodging furnished for the convenience of the employer), 121 (relating to gain from sale or exchange of residence by individual who has attained age 65), 911 (relating to earned income from sources without the United States), or 931 (relating to income from sources within possession of the United States),

"(C) any amount received as a payment from a public agency based upon need, age, blindness, or disability, or as a payment from a public agency for the general support of the taxpayer and his family (as determined by the Secretary or his delegate), other than any payment for the purchase of prosthetic devices or medical services, and

"(D) any amount received as an annuity, pension, retirement, or disability benefit (including veterans' compensation and pensions, workmen's compensation payments, monthly insurance payments under title II of the Social Security Act, railroad retirement annuities and pensions, and benefits under any Federal or State unemployment compensation law).

"(3) APPLICATION WITH SECTION 6428.—The amount allowable to a taxpayer, or to a taxpayer and his spouse, as a credit under subsection (a) for any taxable year (after the application of paragraphs (1) and (2)) shall be reduced by the sum of any amounts received under section 6428 during that year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of the individual and a child of that individual with respect to whom he is entitled to a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents).

"(2) SOCIAL SECURITY TAXES.—The term 'social security taxes' means the aggregate amount of taxes imposed by sections 3101 (relating to rate of tax on employees under the Federal Insurance Contributions Act) and 3111 (relating to rate of tax on employers under such Act) with respect to the wages (as defined in section 3121(a)) received by an individual and his spouse with respect to employment (as defined in section 3121(b)), or which would be imposed with respect to such wages by such sections if the definition of the term 'employment' (as defined in section 3121(b)) did not contain the exclusion set forth in paragraph (9) of such section."

(b) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Personal exemptions.

"Sec. 43. Tax credit for low-income workers with families.

"Sec. 44. Overpayments of tax.".

(c) Section 41(b)(2) of such Code (relating to contributions to candidates for public office) is amended by striking out "and" before "section 38" and by inserting before the period at the end thereof ", and section 42 (relating to personal exemptions)".

(d) Section 46(a)(3) of such Code (relating to the investment credit) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) section 42 (relating to personal exemptions)."

(e) Section 50A(a)(3) of such Code (relating to credit for expenses of work incentive programs) is amended—

(1) by striking out "and" at the end of subparagraph (D),

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) section 42 (relating to personal exemptions).".

(f) Section 6401(b) of such Code (relating to excessive credits) is amended by—

(1) inserting after "lubricating oil)" the following: ", 43 (relating to tax credit for low-income workers with families),"; and

(2) striking out "sections 31 and 39" and inserting in lieu thereof "sections 31, 39, and 43".

(g) Section 6201(a)(4) of such Code (relating to assessment authority) is amended by—

(1) inserting "OR 43" *after* "SECTION 39" in the caption of such section; and

(2) striking out "oil)," and inserting in lieu thereof "oil) or section 43 (relating to tax credit for low-income workers with families),".

(h)(1) Subchapter B of chapter 65 of such Code (relating to rules of special application) is amended by adding at the end thereof the following new section:

"SEC 6428. ADVANCE REFUND OF SECTION 43 CREDIT

"(a) IN GENERAL.—A taxpayer may receive an advance refund of the credit allowable to him under section 43 (relating to tax credit for low-income workers with families) not more frequently than quarterly by filing an election for such refund with the Secretary or his delegate at such time and in such form as the Secretary or his delegate may prescribe. If the taxpayer elects to base his claim for refund on social security taxes imposed on him, his spouse, and their employers, the election shall be a joint election signed by the taxpayer and his spouse. An election may not be made under this subsection with respect to the last quarter of the calendar year, and any other election shall specify the quarter or quarters to which it relates and shall be made not later than the fifteenth day of the eleventh month of the taxable year to which it relates. The Secretary or his delegate shall pay any advance refund for which a proper election is made without regard to any liability, or potential liability, for tax under chapter 1 which has accrued, or may be expected to accrue, to the taxpayer for the taxable year to which the election relates.

"(b) LIMITATIONS.—

"(1) AMOUNT OF REFUND.—The amount of any refund for which a taxpayer files an election under subsection (a) shall be an amount equal to the amount of the credit allowable under section 43 with respect to social security taxes payable with respect to that taxpayer (or, in the case of a joint election, social security taxes payable with respect to that taxpayer and his spouse) for the quarter or quarters to which the election relates.

"(2) INELIGIBLE FOR CREDIT.—No advance refund may be made under this section for any quarter to a taxpayer who, on the basis of the income the taxpayer and his spouse reasonably may expect to receive during the taxable year, will not be entitled to claim any amount as a credit under section 43 for that year.

"(3) MINIMUM PAYMENT.—No payment may be made under this section in an amount less than $30.

"(c) COLLECTION OF EXCESS PAYMENTS.—In addition to any other method of collection available to him, if the Secretary or his delegate determines that any part of any amount paid to a taxpayer for any quarter under this section was in excess of the amount to which that taxpayer was entitled for that quarter, the Secretary or his delegate shall notify that taxpayer of the excess payment and may withhold from any amounts which that taxpayer elects to receive under this section in any subsequent quarter, amounts totaling not more than the amount of that excess.".

(2) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6428. Advance refund of section 43 credit.".

(i) Section 6011(d) of such Code (relating to interest equalization returns, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) RETURNS OF TAXPAYERS RECEIVING ADVANCE REFUND OF SECTION 43 CREDIT.—Every taxpayer who elects to receive an advance refund of the credit allowed by section 43 (relating to tax credit for low-income workers with families) during the taxable year shall file a return for that year, together with such additional information as the Secretary or his delegate may require.".

(j)(1) The Secretary of the Treasury shall develop simple and expedient application forms and procedures for use by taxpayers who wish to receive an advance refund under section 6428 of the Internal Revenue Code of 1954 (relating to advance refund of section 43 credit), arrange for distributing such forms and making them easily available to taxpayers, and prescribe such regulations as may be necessary to carry out the provisions of sections 43 and 6428 of such Code. Each such application form shall contain a warning that the making of a false or fraudulent statement thereon is a Federal crime.

(2) The Secretary of the Treasury is authorized to obtain from any agency or department of the United States Government or of any State or political subdivision thereof such information with respect to any taxpayer applying for or receiving benefits under section 6428 of the Internal Revenue Code of 1954 (relating to advance refund of section 43 credit), or his spouse, as may be necessary for the proper administration of section 43 of the Internal Revenue Code of 1954 (relating to tax credit for low-income workers with families) and of section 6428 of such Code (relating to advance refund of section 43 credit). Notwithstanding any other provision of law, each agency and department of the United States Government is authorized and directed to furnish to the Secretary such information upon request.

(k) Section 402(a)(7) of the Social Security Act is amended by inserting after "other income" the following: "(including any amounts derived from application of the tax credit established by section 43 of the Internal Revenue Code of 1954)".

(l) The amendments made by this section (other than the amendments made under subsection (a) with respect to new section 42 (relating to personal exemptions) and under subsection (f)) shall apply to taxable years beginning after December 31, 1974. The amendments made under subsection (a) with respect to new section 42 shall apply with respect to taxable years beginning after December 31, 1973. The amendment made under subsection (f) shall apply with respect to wages paid after the thirtieth day after the date of enactment of this Act. No advance refund payment under section 6428 of the Internal Revenue Code of 1954 shall be made before April 1, 1975.

TITLE II—AMENDMENTS TO INCREASE REVENUES

CHAPTER 1—MINIMUM TAX AND DOMESTIC INTERNATIONAL SALES CORPORATIONS

STRENGTHENING THE MINIMUM TAX

SEC. 201. (a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended:

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) In General.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds $10,000.";

(2) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(3) by striking out subsection (c).

(b) The amendments made by this section apply to taxable years beginning after December 31, 1973.

TERMINATION OF SPECIAL TAX TREATMENT FOR DOMESTIC INTERNATIONAL SALES CORPORATIONS

SEC. 202. (a) TERMINATION OF EXEMPTION PROVISIONS.—Section 991 of the Internal Revenue Code of 1954 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following: "This section shall not apply to any taxable year beginning after December 31, 1973.".

(b) TERMINATION OF DISCS'S.—Section 992(a) of the Internal Revenue Code of 1954 (relating to definition of a DISC) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—Notwithstanding any other provision of this part, no corporation shall be treated as a DISC or former DISC for any taxable year beginning after December 31, 1973.".

(c) DISTRIBUTIONS BY DISCs TERMINATED.—Section 995(b) of the Internal Revenue Code of 1954 (relating to deemed distributions of DISC income) is amended by adding at the end thereof the following new paragraph:

"(3) DISTRIBUTIONS UPON TERMINATION.—

"(A) In the case of a corporation which was a DISC, or former DISC, for a taxable year ending after December 31, 1972, and before January 1, 1974, and to which the provisions of paragraph (2) do not apply for the succeeding taxable year, a shareholder of the corporation shall be deemed to have received (at the time specified in subparagraph (B)) a distribution taxable as a dividend equal to his pro rata share of the DISC income of such corporation accumulated during the immediately preceding consecutive taxable years for which the corporation was a DISC.

"(B) Distributions described in subparagraph (A) shall be deemed to be received in equal installments on the last day of each of the 10 taxable years of the corporation following the taxable year ending before January 1, 1974.".

CHAPTER 2—TAX TREATMENT OF DOMESTIC OIL AND GAS PRODUCTION AMENDMENT OF 1954 CODE

SEC. 301. Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

WINDFALL PROFITS TAX; PLOWBACK CREDIT

SEC. 302. (a) In General.—

(1) Amendment of subtitle D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 44—WINDFALL PROFITS TAX ON DOMESTIC CRUDE OIL

"Sec. 4981. Imposition of tax.

"Sec. 4982. Amount of tax.

"Sec. 4983. Plowback credit against tax.

"Sec. 4984. Definitions and special rules.

"Sec. 4985. Records and information; regulations.

"SEC. 4981. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the windfall profits from domestic crude oil removed from the premises during each taxable period an excise tax as provided in this chapter.

"(b) BY WHOM PAID.—The tax imposed by this section shall be paid by the person entitled to the deduction under section 611 for depletion with respect to the crude oil.

"SEC. 4982. AMOUNT OF TAX.

"(a) IN GENERAL.—The amount of the tax imposed by section 4981 shall be determined by applying the following table separately to each barrel of crude oil removed from the premises:

"If the windfall profit is: Over	But not over	The tax is:
$0	$0.25	10 percent.
0.25	0.60	2.5. cents plus 20 percent of excess over $0.25.
0.60	1.20	9.5. cents plus 30 percent of excess over $0.60.
1.20	2.00	27.5 cents plus 50 percent of excess over $1.20.
	Over 2.00	67.5 cents plus 85 percent of excess over $2.00.

"(b) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4981 shall be the like fraction of the amount of such tax imposed on a whole barrel.

"SEC. 4983. PLOWBACK CREDIT AGAINST TAX.

"(a) GENERAL RULE.—There shall be allowed to each person liable for the tax imposed by section 4981 for any taxable period, as a credit against such tax, an amount equal to such person's plowback investment for such taxable period.

"(b) LIMITATION.—

"(1) TAXABLE PERIOD 1975.—For the taxable period which is the calendar year 1975, the amount allowed as a credit under subsection (a) shall not exceed the sum of—

"(A) 50 percent of the tax imposed by section 4981, plus

"(B) the same proportion (not greater than 1) of 50 percent of the tax imposed by section 4981 as 3,000 barrels bears to the taxpayer's average daily production of domestic crude oil.

"(2) Adjustment of 3,000 figure in certain cases.—For purposes of paargraph (1), if—

"(A) the taxable period constituted a taxable year,

"(B) the taxpayer had made the election provided in section 613A(b) for such period, and

"(C) the application of section 613A(b)(4) would result in a lower figure for the taxpayer than 3,000 barrels,

then such lower figure shall be substituted for '3,000'.

"(3) AVERAGE DAILY PRODUCTION.—For purposes of this subsection, the taxpayer's average daily production of domestic crude oil shall be determined by dividing his aggregate production (in barrels) of domestic crude oil during the taxable period by the number of days in such taxable period.

"(c) PLOWBACK INVESTMENT.—For purposes of this chapter, a person's plowback investment for any taxable period is the excess of—

"(1) his qualified investment for such taxable period, over

"(2) his plowback threshold for such taxable period.

"(d) RECOMPUTATION OF TAX AND CREDIT ON CUMULATIVE BASIS.—

"(1) IN GENERAL.—In the case of each taxable period (hereinafter in this subsection referred to as 'current period') ending after December 31, 1974, the taxpayer's liability for the tax imposed by section 4981 and his credit under this section shall be recomputed by treating the current period and all prior taxable periods as one taxable period (hereinafter in this subsection referred to as 'recomputation period').

"(2) EFFECT OF RECOMPUTATION.—If the sum of the taxpayer's net tax liability for the current period and for each prior taxable period exceeds his net tax liability for the recomputation period—

"(A) a portion of such excess (not greater than the amount by which the tax imposed by section 4981 for the current period is greater than the credit allowable by this section for the current period) shall be applied to, and shall reduce, the amount of the tax imposed by section 4981 for the current period, and

"(B) the remainder of such excess shall be treated as an overpayment of the tax imposed by section 4981 for the current period.

"(3) NET TAX LIABILITY DEFINED.—For purposes of this subsection, the term 'net tax liability' means, with respect to any taxable period, the excess (if any) of the amount of the tax imposed by section 4981 for such period (or, in the case of the recomputation period, would be imposed for such period) over the credit allowable by this section for such period.

"(4) AMOUNT OF CREDIT DEEMED ALLOWABLE FOR RECOMPUTATION PERIOD.—For purposes of this subsection, the credit deemed allowable by this section for the recomputation period shall not exceed the amount equal to—

"(A) the amount of the tax which would be imposed by section 4981 for the recomputation period, reduced by

"(B) the excess of the amount of tax imposed by section 4981 for the taxable year ending December 31, 1975, over the maximum credit against such tax allowable under subsection (b)(2).

In determining the plowback threshold for purposes of the recomputation period, the amount referred to in subparagraph (A) of the preceding sentence shall be treated as the amount of the liability for tax under section 4981; and the plowback threshold so determined shall be increased by an amount equal to the amount which was not allowable as a credit for the taxable period ending December 31, 1975, solely by reasons of subsection (b).

"(5) ADJUSTMENT OF NET TAX LIABILITY FOR PRIOR ADJUSTMENTS UNDER THIS SUBSECTION.—For purposes of this subsection, if for any taxable period before the current period the application of this subsection resulted in a reduction in tax liability or an overpayment of tax (or both) under paragraph (2), the excess referred to in paragraph (2) for the current period shall be reduced by an amount equal to the sum of all such reductions and overpayments.

"SEC. 4984. DEFINITIONS AND SPECIAL RULES.

"(a) WINDFALL PROFIT.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price over the adjusted base price.

"(b) REMOVAL PRICE.—For purposes of this chapter—

"(1) IN GENERAL.—Except as otherwise provided in this chapter, the term 'removal price' means the amount for which the barrel of oil is sold.

"(2) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons (within the meaning of section 103(c)(6)(C)), the removal price shall be not less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) OIL REMOVED FROM PREMISES BEFORE SALE.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) REFINING BEGUN ON PREMISES.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) MEANING OF TERMS.—As used in this subsection, the terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"(c) BASE PRICE.—For purposes of this chapter, the term 'base price' means the ceiling price determined in the manner provided in regulations section 150.353 prescribed by the Cost of Living Council, as such regulations were in effect on December 1, 1973, for domestic crude oil of the same grade and location.

"(d) ADJUSTED BASE PRICE.—For purposes of this chapter, the term 'adjusted base price' means the base price plus the monthly base price adjustment for the calendar month in which the crude oil is removed (or deemed removed) from the premises, determined in accordance with the following table:

"If the month of application of the tax imposed by section 4981 is:	*The monthly base price adjustment is:*
1	$0.500
2	.526
3	.552
4	.581
5	.610
6	.641
7	.674
8	.708
9	.745
10	.783
11	.822
12	.864
13	.909
14	.955
15	1.004
16	1.055
17	1.109
18	1.165
19	1.225
20	1.287
21	1.353
22	1.422
23	1.495
24	1.571
25	1.651
26	1.735
27	1.824
28	1.917
29	2.015
30	2.117
31	2.226
32	2.339
33	2.458
34	2.584
35	2.716
36	2.854
37	$3.000
38	3.153
39	3.314
40	3.483
41	3.661
42	3.848
43	3.931
44	4.015
45	4.098
46	4.181
47	4.265
48	4.348
49	4.431
50	4.515
51	4.598
52	4.681
53	4.765
54	4.848
55	4.931
56	5.015
57	5.098
58	5.181
59	5.265
60	5.348

"(e) QUALIFIED INVESTMENT.—For purposes of this chapter, any person's qualified investment for any taxable period is the amount paid or incurred by such person during such taxable period (with respect to areas within the United States or a possession of the United States) for—

"(1) intangible drilling and development costs, or geological and geophysical costs, described in section 263(c),

"(2) the construction, reconstruction, erection, or acquisition of the following items but only if the original use of such items begins with such person:

"(A) depreciable assets used for—

"(i) the exploration for or the development or production of oil or gas (including development or production from oil shale),

"(ii) converting oil shale, coal, or liquid hydrocarbons into oil or gas, or

"(iii) refining oil or gas (but not beyond the primary product stage),

"(B) pipelines for gathering or transmitting oil or gas, and facilities (such as pumping stations) directly related to the use of such pipelines,

"(3) secondary or tertiary recovery of oil or gas, or

"(4) the acquisition of oil and gas leases (other than offshore oil and gas leases).

The aggregate amount which may be taken into account by any person under paragraph (4) of the preceding sentence for any taxable period shall not exceed one-third of the aggregate amount which may be taken into account by such person under paragraphs (1), (2), and (3) of the preceding sentence for such period.

"(f) PLOWBACK THRESHOLD.—For purposes of this chapter, any person's plowback threshold for any taxable period is the aggregate of the removal prices of barrels removed from the premises during the taxable period for which he is liable for tax under section 4981, minus the sum of—

"(1) the aggregate of the base prices for all such barrels, and

"(2) the amount of such person's liability for tax under section 4981.

"(g) OTHER DEFINITIONS.—For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) DOMESTIC CRUDE OIL.—The term 'domestic crude oil' means crude oil produced from an oil or gas well located in the United States or in a possession of the United States.

"(3) BARREL.—The term 'barrel' means 42 United States gallons.

"(4) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) OFFSHORE.—The term 'offshore' means the area of the United States, or a possession of the United States, which extends seaward (or into the Gulf of Mexico) from—

"(A) the line of ordinary low water along that portion of the coast which is in direct contact with the open sea (or the Gulf of Mexico) or,

"(B) the line marking the seaward limit of inland waters (or such waters' boundary with the Gulf of Mexico).

For purposes of the preceding sentence, the line of ordinary low water shall be such line as heretofore or hereafter modified by accretion, erosion, or reliction.

"(7) TAXABLE PERIOD.—The term 'taxable period' means—

"(A) the calendar years 1975, 1976, 1977, and 1978, and

"(B) the period beginning on January 1, 1979, and ending at the close of the 60th calendar month beginning after the date of the enactment of this chapter.

"(h) MEMBERS OF AFFILIATED GROUP TREATED AS ONE PERSON.—If 2 or more corporations are members of an affiliated group making a consolidated return with respect to the tax imposed by chapter 1 for a taxable year or years which include any entire taxable period, such corporations shall be treated as one person for purposes of the tax imposed by section 4981 for such taxable period and for purposes of the credit against such tax allowable under section 4983 for such period.

"(i) EXEMPTION FROM TAX WHERE TAX-EXEMPT ORGANIZATION IS PROHIBITED FROM PLOWING BACK.—The tax imposed by section 4981 shall not apply to any organization described in section 501(c)(3) which is exempt from tax under subtitle A, to any political subdivision of a State, or to any agency or instrumentality of a State or political subdivision thereof, if under the applicable State or local law such organization, subdivision, agency, or instrumentality is not permitted (and was not on April 1, 1974 permitted) to pay or incur amounts for any of the purposes specified in subsection (e).

"SEC. 4985: RECORDS AND INFORMATION; REGULATIONS

"(a) RECORDS AND INFORMATION.—Each person liable for tax under section 4981, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude was produced, shall keep such records, make such returns, and furnish such information with respect to such oil as the Secretary or his delegate may by regulations prescribe.

"(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this chapter."

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 44. Windfall profits tax on domestic crude oil."

(b) TECHNICAL AMENDMENTS.—

(1) The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The net windfall profits tax imposed by section 4981."

(2) The first sentence of section 613(a) (relating to percentage depletion) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and (in the case of oil and gas wells) reducing such gross income by the amount of the tax imposed by section 4981 (relating to windfall profits tax)."

(3) (A) Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 84. OVERPAYMENTS OF WINDFALL PROFITS TAXES

"Gross income includes any amount treated as an overpayment of tax under section 4983(d)(2)(B) (relating to recomputation of windfall profits tax and credit on cumulative basis)."

(B) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec.84. Overpayment of windfall profits taxes."

(c) TIME FOR FILING RETURN OF WINDFALL PROFITS TAX.—

(1) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

"SEC. 6077. TIME FOR FILING RETURN OF WINDFALL PROFITS TAX

"Each return of the tax imposed by section 4981 (relating to windfall profits tax) for any taxable period (within the meaning of section 4984(g)(7)) shall be filed not later than the 15th day of the third month (15th day of the fourth month in the case of an individual) following the close of the taxable period."

(2) The table of sections for such part V is amended by adding at the end thereof the following new item:

"SEC. 6077. Time for filing return of windfall profits tax."

(4) CERTAIN INFORMATION REQUIRED TO BE FURNISHED.—

(1) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"S53. 36050A. INFORMATION FUURNISHED BY PURCHASER AND OPERATOR REGARDING WINDFALL PROFITS TAX ON DOMESTIC CRUDE OIL

"(a) CERTAIN INFORMATION FURNISHED BY PURCHASER.—Under regulations prescribed by the Secretary or his delegate, the purchaser of domestic crude oil (as defined in section 4984(g)(2)) shall furnish to the person liable for tax under section 4981 with respect to such oil a monthly statement showing the following:

"(1) the amount of domestic crude oil purchased from such person during such month,

"(2) the removal price of such oil,

"(3) the base price and the adjusted base price with respect to such oil,

"(4) the amount of such person's liability for tax under section 4981 with respect to such oil, and

"(5) such other information as may be required by regulations prescribed by the Secretary or his delegate.

"(b) INFORMATION FURNISHED BY OPERATOR.—Under regulations prescribed by the Secretary or his delegate, if the purchaser of domestic crude oil and the operator of the well from which such crude oil was produced make a joint election under this subsection, the monthly statement required to be furnished by the purchaser under subsection (a) shall be furnished by such operator.

"(c) TIME FOR FILING MONTHLY STATEMENT.—Each monthly statement required to be furnished under subsection (a) or (b) for any month shall be furnished before the first day of the second month which begins after the close of such month.

"(d) CERTIFICATION FURNISHED BY OPERATOR.—Under regulations prescribed by the Secretary or his delegate, the operator of the well from which crude oil subject to the tax imposed under section 4981 was produced shall certify (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe) to the purchaser the base price (within the meaning of section 4984(c)) with respect to such crude oil. For purposes of section 6652(b) (relating to additions to tax for failure to file other returns) such certification shall be treated as a statement of a payment to another person.

"(e) CROSS REFERENCES.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, see section 7242."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 6652(b) is amended by striking out "or section 6051(d)" and inserting in lieu thereof the following: "section 6050A (relating to information regarding windfall profits tax on domestic crude oil), or section 6051(d)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050A. Information furnished by purchaser and operator regarding windfall profits tax on domestic crude oil."

(e) CRIMINAL PENALTY FOR FAILURE TO FURNISH CERTAIN INFORMATION.—

(1) IN GENERAL.—Part II of subchapter A of chapter 75 of subtitle F (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"SEC. 7242. WILLFUL FAILURE TO FURNISH CERTAIN INFORMATION REGARDING WINDFALL PROFITS ON DOMESTIC CRUDE OIL.

"Any person who is required under section 6050A (or regulations thereunder) to furnish any statement, information, or certification to any other person and who willfully fails to furnish such statement, information, or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(2) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7242. Willful failure to furnish certain information regarding windfall profits tax on domestic crude oil."

(f) INFORMATION FURNISHED BY PARTNERSHIPS, TRUSTS, AND ESTATES.—

(1) INFORMATION TO BE FURNISHED TO PARTNERS AND TO BENEFICIARIES OF ESTATES AND TRUSTS.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"SEC. 6050B. INFORMATION TO BE FURNISHED TO PARTNERS AND TO BENEFICIARIES OF ESTATES AND TRUSTS

"(a) REQUIREMENT.—Under regulations precribed by the Secretary or his delegate, each partnership, estate, and trust required to file a return pursuant to section 4985 for any taxable period shall furnish to each partner or beneficiary, as the case may be, a written statement showing the following:

"(1) the name of such partner or beneficiary,

"(2) information received by the partnership, trust, or estate pursuant to section 6050A,

"(3) the total amount of qualified investment made by such partnership, trust, or estate during such taxable period,

"(4) such partner's or beneficiary's distributive share of the items referred to in paragraphs (2) and (3), and

"(5) such other information as may be required by regulations prescribed by the Secretary or his delegate.

"(b) TIME FOR FURNISHING WRITTEN STATEMENT.—Each written statement required to be furnished under this section with respect to any taxable period shall be furnished before the first day of the third month following the close of such period."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end thereof the following new item:

"Sec. 6050B. Information to be furnished to partners and to beneficiaries of estates and trusts."

(g) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1975.

PHASEOUT OF PERCENTAGE DEPLETION FOR DOMESTIC OIL AND GAS PRODUCTION

Sec. 303. (a) ADJUSTMENT OF RATES.—

(1) AMENDMENT OF SUBCHAPTER I.—Part I of subchapter I of chapter 1 (relating to natural resources) is amended by inserting after section 613 the following new section:

"SEC. 613A. PHASEOUT OF PERCENTAGE DEPLETION FOR DOMESTIC OIL AND GAS PRODUCTION.

"(a) REDUCTION IN 22 PERCENT RATE.—Except as otherwise provided in this section, in the case of domestic oil and gas wells the percentage referred to in section 613(a) shall be (in lieu of the 22 percent specified in section 613(b)(1)) the percentage determined in accordance with the following table:

"In the case of gross income from the property for the following calendar years:	*The percentage shall be:*
1974	15
1975 and thereafter	0

"(b) 3,000 BARREL-A-DAY EXEMPTION.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection for the taxable year, then with respect to so much of his average daily production of domestic crude oil as does not exceed 3,000 barrels, the percentage referred to in section 613(a) shall be 15 percent in the case of gross income from the property before January 1, 1979.

"(2) AVERAGE DAILY PRODUCTION.—For purposes of paragraph (1), the taxpayer's average daily production of domestic crude oil shall be determined by dividing his aggregate production of domestic crude oil during the taxable year by the number of days in such taxable year.

"(3) BARRELS WITHIN EXEMPTION TO BE DETERMINED ON A PROPORTIONATE BASIS.—If the taxpayer's average daily production of domestic crude oil exceeds 3,000 barrels, the barrels to which paragraph (1) applies shall be determined by taking from the production of each property a number of barrels which bears the same proportion to the total production of the taxpayer for such year from such property as 3,000 barrels bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.

"(4) BUSINESSES UNDER COMMON CONTROL; MEMBERS OF THE SAME FAMILY.—

"(A) COMPONENT MEMBERS OF CONTROLLED GROUP TREATED AS ONE TAXPAYER.—For purposes of this subsection, persons who are members of the same controlled group of corporations shall be treated as one taxpayer.

"(B) AGGREGATION OF BUSINESS ENTITIES UNDER COMMON CONTROL.—If 50 percent or more of the beneficial interest in two or more corporations, partnerships, trusts, estates, or other entities is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), the 3,000 barrel per day exemption provided by this subsection shall be allocated among all such entities in proportion to the respective production of domestic crude oil during the period in question by such entities.

"(C) ALLOCATION AMONG MEMBERS OF THE SAME FAMILY.—In the case of individuals who are members of the same family, the 3,000 barrel per day exemption provided by this subsection shall be allocated among such individuals in proportion to the respective production of domestic crude oil during the period in question by such individuals.

"(D) DEFINITION AND SPECIAL RULES.—For purposes of this paragraph—

"(i) the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a),

"(ii) a person is a related person to another person if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children, and

"(iii) the family of an individual includes only his spouse and minor children.

"(c) STRIPPER WELL EXEMPTION.—In the case of any well located in the United States or in a possession of the United States which is a stripper well (as defined in subsection (h)(4)) for any calendar month ending before January 1, 1979, if the taxpaper elects the application of this subsection for the taxable year, then with respect to the gross income for such month from crude oil produced from such well the percentage referred to in section 613(a) shall be 15 percent.

"(d) ARCTIC CIRCLE EXEMPTION.—In the case of any well located north of the Arctic Circle, if the taxpayer elects the application of this subsection for the taxable year, then with respect to gross income from crude oil from such well before January 1, 1979, the percentage referred to in section 613(a) shall be 15 percent.

"(e) ELECTION.—The taxpaper may elect for any taxable year to have subsection (b), subsection (c), or subsection (d) (but not more than one such subsection) apply. Any such election may be made on the taxpayer's return for the taxable year. Any such election may be made or changed at any time thereafter before the expiration of the time for filing a claim for credit or refund of an overpayment of the tax imposed by this chapter for such taxable year.

"(f) EXEMPTION FOR REGULATED NATURAL GAS AND NATURAL GAS SOLD UNDER FIXED CONTRACT.—

"(1) IN GENERAL.—

"(A) REGULATED NATURAL GAS.—Except as provided in paragraph (2), in the case of regulated natural gas, the percentage referred to in section 613(a) shall be 22 percent and the provisions of this section (other than this subsection) shall not apply.

"(B) NATURAL GAS SOLD UNDER FIXED CONTRACT.—In the case of natural gas sold under a fixed contract, the percentage referred to in section 613(a) shall be 22 percent and the provisions of this section (other than this subsection) shall not apply.

"(2) TERMINATION OF REGULATED NATURAL GAS EXEMPTION.—In the case of regulated natural gas, if the summary of prices published pursuant to paragraph (3) for any calendar year shows—

"(A) an average price per 1,000 cubic feet of regulated natural gas which equals or exceeds

"(B) one-sixth of the average price per barrel of domestic crude oil not subject to Federal price control,

then the allowance for depletion shall be computed for all periods after December 31 of such calendar year without reference to paragraph (1)(A).

"(3) COMPILATION OF DATA WITH RESPECT TO PRICES OF REGULATED NATURAL GAS AND DO-

MESTIC CRUDE OIL.—For each calendar year beginning after December 31, 1974, the Secretary or his delegate shall compile data establishing—

"(A) the average sales price per 1,000 cubic feet of regulated natural gas sold during such year, and

"(B) the average sales price per barrel of domestic crude oil not subject to Federal price control which is sold during such year. Within 90 days after the close of any such calendar year, the Secretary or his delegate shall publish a summary of such data in the Federal Register. Any such summary so published shall be final and conclusive.

"(4) AUTHORIZATION TO COMPILE DATA.—

"(A) DATA FROM EXECUTIVE AGENCIES.—In compiling the data required under paragraph (3), the Secretary or his delegate is authorized to receive directly from any other executive department or agency of the United States information and statistics necessary for the compilation of such data. Such other executive department or agency shall furnish any such requested information and statistics directly to the Secretary or his delegate.

"(B) PURCHASERS AND SELLERS TO FURNISH INFORMATION.—If no other executive department or agency of the United States is able to furnish the Secretary or his delegate the information and statistics from which the data required under paragraph (3) can be compiled, the Secretary or his delegate may by regulation require purchasers and sellers of domestic crude oil and regulated natural gas to make such reports of sales, volumes, prices, and related information as may be necessary to compile the data required under paragraph (3).

"(g) GEOTHERMAL ENERGY.—In the case of any geothermal deposit which is determined to be referred to in section 613(b)(1)(A), the percentage referred to in section 613(a) shall be 22 percent and the provisions of this section (other than this subsection) shall not apply.

"(h) DEFINITIONS.—For purposes of this section—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(3) DOMESTIC.—The term 'domestic' refers to production from an oil or gas well located in the United States or in a possession of the United States.

"(4) STRIPPER WELL.—A well shall be treated as a stripper well for any calendar month for which its production of crude oil averaged 10 barrels or less per day.

"(5) BARREL.—The term 'barrel' means 42 United States gallons.

"(6) REGULATED NATURAL GAS.—The term 'regulated natural gas' means natural gas subject to the jurisdiction of the Federal Power Commission with respect to the sale or transportation of which an order or certificate of the Federal Power Commission is in effect (or a proceeding for the issuance of such an order or certificate has been instituted), if price is taken into account directly or indirectly in the issuance of such order or certificate.

"(7) NATURAL GAS SOLD UNDER A FIXED CONTRACT.—The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on April 10, 1974, and all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liability of the seller for tax under this chapter by reason of the phaseout of percentage depletion under this section."

(2) The table of sections for Part I of subchapter I of chapter 1 is amended by inserting after the item relating to section 613 the following new item:

"Sec. 613A. Phaseout of percentage depletion for domestic oil and gas production."

(b) REMOVAL OF 50 PERCENT LIMITATION IN COMPUTING TAXABLE INCOME FROM OIL AND GAS WELL.—The second sentence of section 613(a) (relating to percentage depletion) is amended by striking out "50 percent" and inserting in lieu thereof "50 percent (100 percent in the case of oil and gas wells)".

(c) OPTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES IN CASE OF OIL AND GAS WELL.—Section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells) is amended to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS, AND GEOLOGICAL AND GEOPHYSICAL COSTS, IN CASE OF OIL AND GAS WELLS.—

"(1) INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Notwithstanding subsection (a), regulations shall be prescribed by the Secretary or his delegate under this subtitle corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the Congress in H. Con. Res. 50, Seventy-ninth Congress.

"(2) GEOLOGICAL AND GEOPHYSICAL COSTS.—

"(A) IN GENERAL.—In the case of oil and gas wells, the tax treatment which applies to the taxpayer's intangible drilling and development costs shall also apply to his domestic geological and geophysical costs.

"(B) GEOLOGICAL AND GEOPHYSICAL COSTS DEFINED.—For purposes of this paragraph, the term 'domestic geological and geophysical costs' means any expenditure for—

"(i) aerial photography,

"(ii) geological mapping,

"(iii) airborne magnetometer surveys,

"(iv) gravity meter surveys,

"(v) seismograph surveys, or

"(vi) similar geological and geophysical methods,

for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas within the United States or a possession of the United States."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) and (b) apply to taxable years beginning after December 31, 1973.

(2)(A) The amendment made by subsection (c) shall apply to any taxable year beginning after December 31, 1976, for which an election under subsection (b), (c), or (d) of section 613A of the Internal Revenue Code of 1954 is not in effect.

(B) The taxpayer may elect to capitalize or to deduct all costs to which 263(c) of the Internal Revenue Code of 1954 (as amended by subsection (c) of this section) applies. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of the Internal Revenue Code of 1954 with respect to the taxpayer's first taxable year beginning after December 31, 1976, to which the amendment made by subsection (c) applies and for which he pays or incurs costs referred to in such section 263(c). Any election made under this subparagraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time may not be changed or revoked.

TREATMENT FOR PURPOSES OF THE INVESTMENT CREDIT OF CERTAIN PROPERTY USED IN INTERNATIONAL OR TERRITORIAL WATERS

SEC. 304. (a) Amendment to 1954 Code.—

(1) IN GENERAL.—Clause (x) of section 48(a)(2)(B) (relating to property used outside the United States) is amended by striking out "territorial waters" and inserting in lieu thereof "territorial waters within the northern portion of the Western Hemisphere."

(2) DEFINITION.—Subparagraph (B) of section 48(a)(2) is amended by adding at the end thereof the following new sentence: "For purposes of clause (x), the term "northern portion of the Western Hemisphere' means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property, the construction, reconstruction, or erection of which was completed after March 31, 1974, or the acquisition of which by the taxpayer occurred after such date.

(2) BINDING CONTRACT.—The amendments made by subsection (a) shall not apply to property constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 1, 1974, and at all times thereafter, binding on the taxpayer.

(3) CERTAIN LEASE-BACK TRANSACTIONS, ETC.—Where a person who is a party to a binding contract described in paragraph (2) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (2), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under section 48(d) of the Internal Revenue Code of 1954, only if a party to such contract retains a right to use the property under a long-term lease.

CHAPTER 3—TAX TREATMENT OF FOREIGN OIL AND GAS PRODUCTION AMENDMENT OF 1954 CODE

SEC. 401. Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

REPEAL OF PERCENTAGE DEPLETION IN CASE OF FOREIGN OIL AND GAS WELLS

SEC. 402. (a) AMENDMENT TO SECTION 613.—Section 613(d) (relating to percentage depletion) is amended to read as follows:

"(d) DENIAL OF PERCENTAGE DEPLETION IN CASE OF FOREIGN OIL OR GAS WELL.—

"(1) IN GENERAL.—In the case of any foreign oil or gas well, the allowance for depletion under section 611 shall be computed without reference to this section.

"(2) FOREIGN OIL OR GAS WELL.—For purposes of this subsection, the term 'foreign oil or gas well' means any oil or gas well which is not located in the United States or in a possession of the United States."

(b) TREATMENT OF INTANGIBLE DRILLING AND DEVELOPMENT EXPENSES IN THE CASE OF FOREIGN OIL AND GAS WELLS.—Section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells), as amended by section 102(c) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(3) FOREIGN OIL AND GAS WELLS.—

"(A) IN GENERAL.—The regulations prescribed under this subsection shall be applied separately—

"(i) with respect to domestic oil and gas wells, and

"(ii) with respect to foreign oil and gas wells.

"(B) REVOCATION, WITH RESPECT TO FOREIGN OIL AND GAS WELLS, OF ELECTION TO EXPENSE.—In the case of any taxpayer with respect to whom there is in effect for his last taxable year ending before January 1, 1974, an option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells—

"(i) such option shall continue to apply to domestic oil and gas wells, but

"(ii) the taxpayer may revoke such option with respect to foreign oil and gas wells, effective for his first or second taxable year ending after December 31, 1973, and for all taxable years thereafter.

Any revocation referred to in clause (ii) of the preceding sentence shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by this chapter with respect to such first taxable year or such second taxable year, as the case may be. Any such revocation may be revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time may not be revoked.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'domestic oil and gas wells' means oil and gas wells located in the United States or a possession of the United States.

"(ii) The term 'foreign oil and gas wells' means oil and gas wells other than domestic oil and gas wells."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1973.

LIMITATION ON FOREIGN TAXES ATTRIBUTABLE TO FOREIGN OIL AND GAS EXTRACTION INCOME; SEPARATE COMPUTATION OF FOREIGN TAX CREDIT FOR OIL AND GAS RELATED INCOME

SEC. 403. (a) In General.—Subpart A of part III of subchapter N of chapter 1 (relating to foreign tax credit) is amended by adding at the end thereof the following new section:

SEC. 907. SPECIAL RULES IN CASE OF FOREIGN OIL AND GAS INCOME

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is 110 percent of the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11.

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income.

With respect to foreign oil related income, the overall limitation provided by section 904(a)(2) shall apply and the per-country limitation provided by section 904(a)(1) shall not apply.

"(c) FOREIGN INCOME DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FOREIGN OIL AND GAS EXTRACTION INCOME.—The term 'foreign oil and gas extraction income' means the taxable income derived from sources without the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells, or

"(B) the sale or exchange of assets used in the trade or business described in subparagraph (A).

"(2) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells,

"(B) the processing of such minerals into their primary products,

"(C) the transportation of such minerals or primary products,

"(D) the distribution or sale of such minerals or primary products, or

"(E) the sale or exchange of assets used in the trade or business described in subparagraph (A), (B), (C), or (D).

"(3) DIVIDENDS, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil and gas extraction income' and the term 'foreign oil related income' include—

"(A) dividends from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(B) amounts with respect to which taxes are deemed paid under section 960(a), and

"(C) the taxpayer's distributive share of the income of partnerships,

to the extent such dividends, amounts, or distributive share is attributable to foreign oil and gas extraction income, or to foreign oil related income, as the case may be.

"(4) CERTAIN LOSSES.—If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account, such items—

"(A) shall not be taken into account in computing foreign oil and gas extraction income for such year, but

"(B) shall be taken into account in computing foreign oil related income for such year.

"(d) DISREGARD OF CERTAIN POSTED PRICES, ETC.—For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).

"(e) TRANSITIONAL RULES.—

"(1) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1973.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1974, to any taxable year ending after December 31, 1973—

"(A) subsection (a) of this section shall be deemed to have been in effect for such prior taxable year and for all taxable years thereafter, and

"(B) the carryover from such prior year shall be divided (effective as of the first day of the first taxable year ending after December 31, 1973) into—

"(i) a foreign oil related carryover, and

"(ii) an other carryover,

on the basis of the proportionate share of the foreign oil related income, or the other taxable income, as the case may be, of the total taxable income taken into account in computing the amount of such carryover.

"(2) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1974.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1975, to any taxable year ending after December 31, 1974, if the per-country limitation provided by section 904(a)(1) applied to such prior taxable year and to the taxpayer's last taxable year ending before January 1, 1975, then in the case of any foreign oil related carryover—

"(A) the first sentence of section 904(e)(2) shall not apply, but

"(B) such amount may not exceed the amount which could have been used in such succeeding taxable year if the per-country limitation continued to apply.

"(f) RECAPTURE OF FOREIGN OIL RELATED LOSS.—

"(1) GENERAL RULE.—For purposes of this subpart, in the case of any taxpayer who sustains a foreign oil related loss for any taxable year—

"(A) that portion of the foreign oil related income for each succeeding taxable year which is equal to the lesser of—

"(i) the amount of such loss (to the extent not used under this paragraph in prior years), or

"(ii) 50 percent of the foreign oil related income for such succeeding taxable year, shall be treated as income from sources within the United States (and not as income from sources without the United States), and

"(B) the amount of the income, war profits, and excess profits paid or accrued (or deemed to have been paid) to a foreign country for such succeeding taxable year with respect to foreign oil related income shall be reduced by an amount which bears the same proportion to the total amount of such foreign taxes as the amount treated as income from sources within the United States under subparagraph (A) bears to the total foreign oil related income for such succeeding taxable year.

For purposes of this chapter, the amount of any foreign taxes for which credit is denied under subparagraph (B) of the preceding sentence shall not be allowed as a deduction for any taxable year. For purposes of this subsection, foreign oil related income shall be determined without regard to this subsection.

"(2) FOREIGN OIL RELATED LOSS DEFINED.—For purposes of this subsection, the term 'foreign oil related loss' means the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

"(3) DISPOSITIONS.—

"(A) IN GENERAL.—For purposes of this chapter, if property used in a trade or business described in subparagraph (A), (B), (C), or (D) of subsection (c)(2) is disposed of during any taxable year—

"(i) the taxpayer notwithstanding any other provision of this chapter (other than paragraph (1)) shall be deemed to have received and recognized foreign oil related income in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the foreign oil related losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

"(ii) paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.

"(B) DISPOSITION DEFINED.—For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property, whether or not gain or loss is recognized on the transfer.

"(C) EXCEPTIONS.—Notwithstanding subparagraph (B), the term 'disposition' does not include—

"(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

"(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).

"(g) WESTERN HEMISPHERE TRADE CORPORATIONS WHICH ARE MEMBERS OF AN AFFILIATED GROUP.—If a Western Hemisphere trade corporation is a member of an affiliated group for the taxable year, then in applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this section and section 1503(b)) be taken into account for purposes of section 901 shall be reduced by the greater of—

"(1) the reduction with respect to such taxes provided by subsection (a) of this section, or

"(2) the reduction determined under section 1503(b) by applying section 1503(b) separately with respect to such taxes,

but not by both such reductions."

(b) CARRYBACKS FROM 1977, 1978, OR 1979 OF FOREIGN TAXES ATTRIBUTABLE TO FOREIGN OIL RELATED INCOME.—If the taxpayer has a carryback of foreign taxes attributable to foreign oil related income (within the meaning of section 907(c)(2) of the Internal Revenue Code of 1954) paid or accrued for a taxable year ending in 1977, 1978, or 1979, then in applying section 904(d) of the Internal Revenue Code of 1954 such carryback (in lieu of being a 2-year carryback) shall be—

(1) if the carryback arises in a taxable year ending in 1977, a 3-year carryback, or

(2) if the carryback arises in a taxable year ending in 1978 or 1979, a 4-year carryback.

(c) TECHNICAL AMENDMENTS.—

(1) Sectiodn 901(e)(2) (relating to foreign taxes on mineral income) is amended by striking out "extraction of minerals" and inserting in lieu thereof "extraction of minerals (other than minerals extracted from oil or gas wells)".

(2) Section 963(d) (relating to effective foreign tax rate for purposes of subpart F) is amended by adding at the end thereof the following new sentence:

"For purposes of this subsection, the income, war profits, or excess profits taxes paid or accrued to any foreign country by any controlled foreign corporation or corporations shall be reduced as provided in subsections (a) and (f) of section 907."

(3) The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 907. Special rules in case of foreign oil and gas income."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1973; except that—

(1) the second sentence of section 907(b) shall apply to taxable years ending after December 31, 1974, and

(2) the provisions of section 907(f) shall apply to losses sustained in taxable years ending after December 31, 1974.

TITLE III—INCREASE INCENTIVE FOR EXPANDED INVESTMENT

INCREASED INVESTMENT CREDIT FOR EXPANDED INVESTMENT

SEC. 501. (a) Section 46 of the Internal Revenue Code of 1954 (relating to amount of investment credit) is amended—

(1) by striking out subsection (a)(1) and inserting in lieu thereof the following:

"(1) General rule.—The amount of the credit allowed by section 38 for the taxable year shall be equal to—

"(A) 7 percent of the qualified investment (as defined in subsection (c)), plus

"(B) 10 percent of the expanded investment (as defined in subsection (f)).",

(2) by inserting immediately after "qualified investment" in subsection (a)(4) the following: "or expanded investment",

(3) by adding at the end thereof the following new subsection:

"(f) EXPANDED INVESTMENT.—

"(1) IN GENERAL.—For purposes of this section, the term 'expanded investment' means, with respect to any taxable year, the amount by which the qualified investment of the taxpayer for such year exceeds the average amount of qualified investment of the taxpayer per taxable year, as determined on the basis of the 3 most recent previous taxable years, determined without regard to investment credit carryovers and carrybacks.

"(2) PUBLIC UTILITY PROPERTY.—In the case of section 38 property which is public utility property, as defined in subsection (c)(3), the amount of expanded investment shall be 7/10 of the amount determined under paragraph (1).".

(b) The amendments made by this section apply with respect to section 38 property which is constructed, reconstructed, erected, or purchased after December 31, 1974.

FACT SHEET ON PROPOSED OIL AND GAS TAX PROVISIONS

PURPOSE

The tax provisions in this bill with respect to oil and gas are those contained in the House Ways and Means Committee bill ordered reported on November 21, 1974. The House Ways and Means Committee made a careful investigation of these matters, held extensive hearings, and developed a balanced package of tax reform and incentive measures. The purpose of the Ways and Means Bill, and our bill, is to—

Tax windfall profits on oil production beginning in 1975,

Encourage development of additional domestic sources of oil by allowing the "plowback" into oil and gas investments of most tax liability under the windfall profits tax,

Phase-out both foreign and domestic percentage depletion for oil generally by 1975, and completely by 1979, on the ground that recent price increases eliminate the need for this tax incentive, and

Further encourage the domestic production of oil and gas relatively by reducing the tax advantages of overseas development.

CURRENT TAX LAW

The oil and gas industry presently benefits from numerous tax preferences. The percentage depletion option now permits 22 percent of the gross revenues from oil and gas extraction to go entirely free of Federal income taxes, up to half of the producer before-tax profits. For a successful well, percentage depletion can provide a total tax deduction much larger than the alternative of depreciating the investment in the oil, as would be done by investors in other businesses. There are also tax preferences that encourage U.S. petroleum firms to operate abroad, including converting royalty payments into taxes creditable against U.S. taxes, and the offsetting of losses but not profits abroad against U.S. domestic income abroad (per country limit rule).

As a result of these and other tax preferences, major oil companies paid only about 6 percent of their income in U.S. income taxes in 1973: Gulf paid 1.1 percent; Mobil, 2.2 percent; Texaco, 1.6 percent; Stnd. of Cal., 4.1 percent, Arco, 8.1 percent; Exxon, 5.4 percent; and Standard of Indiana, 21.6 percent.

PROPOSED TAX MEASURE

The specifics of the provisions in our bill are as follows:

Windfall Profits Tax. A graduated profits tax—ranging from 10-85 percent—is imposed on all crude oil selling at more than 50 cents above the December 1, 1973 price (averaging $4 per barrel) established by the Cost of Living Council, effective 1 January, 1975. The tax is gradually phased-out over 5 years with gross revenue gains of $5.0 billion in 1975 and $6.5 billion in 1976.

Plowback Credit. A tax credit for certain types of oil and gas production investment is provided, with the credit paid for through reduction of the windfall profits tax otherwise payable. In 1975 the credit may not exceed 50 percent of the tax plus the proportion of the remaining 50 percent represented by the production of 3,000 barrels a day or less, with a 100 percent offset possible in subsequent years. The net revenue gain of the windfall profits tax after plowback is $1.1 billion in 1975 and $.1 billion in 1976.

Phase-out of Domestic Percentage Depletion. The current 22 percent depletion allowance for most domestic oil and gas production is reduced to 15 percent in 1974, and eliminated in 1975. The depletion rate is frozen at 15 percent from 1975 to 1979 for production up to 3,000 barrels a day, "stripper" wells, and Alaska north slope oil. The estimated revenue gain from the phase-out of percentage depletion on domestic oil and gas production is approximately $600 million in 1974, $1.7 billion in 1975, and $2.0 billion in 1976.

Foreign Oil and Gas Production. The bill has several provisions to remove special benefits to U.S. firms producing oil abroad. Percentage depletion on income from oil and gas production is repealed for 1974 and subsequent years, the foreign tax credit is limited to 10 percent above the U.S. tax rate, and the taking of foreign losses against domestic income is disallowed. These and other reforms, gain revenue of $340 million in 1974 and $460 million in 1975.

REASONS FOR REFORMS

The oil and gas provisions of this bill will serve to prevent producers of oil and gas from reaping excessive profits because of ineffective and expensive tax preferences, and distortion of oil prices caused by the international oil cartel.

The tax provisions this bill would reform have in the past been defended primarily as incentives for encouraging oil and gas exploration and development. The available evidence indicates they have in fact been ineffective and costly, as well as having the perverse effect of encouraging production abroad. The high prices of oil today render these tax subsidies even more expensive and, at the same time, remove any justification for them because today's oil prices provide ample incentive for oil development without subsidies.

The high profits that major oil companies have earned because of the overgenerous tax benefits has been reinforced by the tripling of international crude oil profits since the fall of 1973. Crude oil from new domestic wells which could profitably be extracted at $3.50/bbl in 1973 can now be sold for $11.00/bbl because foreign producers are colusively regulating output and price. There is no economic rationale for permitting domestic oil and gas companies to reap windfall profits due to the uncompetitive pricing practices of foreign producers.

The net effect of overgenerous tax subsidies and the international oil cartel has been ballooning profits for U.S. oil firms. For all U.S. companies, oil profits are up 66 percent in the first nine months of 1974, to a total of $10.8 billion. After their accounts had done everything to minimize below-the-line profits, *Business Week* reported that: Exxon had after tax profits up 38 percent, Mobil up 58 percent, Texaco up 70 percent, Shell oil up 83 percent, Standard of Indiana up 104 percent, Atlantic Richfield up 112 percent, and Phillips Petroleum up 140 percent.

TOTAL REVENUE EFFECTS

The total revenue effects will be $1.0 billion in 1974, $3.3 billion for 1975, $2.6 billion a year for 1976 through 1978, and $3.7 billion in 1979, for a cumulative revenue increase of $16 billion over 6 years.

FACT SHEET ON REPEAL OF DISC

The DISC provisions of the Tax Code allow specially organized export corporations to defer indefinitely the tax on one-half of their income. The DISC provisions were enacted in 1971 in order to stimulate exports. Since then, however, two devaluations and the system of flexible exchange rates have fundamentally changed the U.S. and world trading system, giving a very substantial stimulus to U.S. exports. There is no evidence that the DISC provisions themselves have provided any extra stimulus to exports. Yet DISC will cost the Treasury $740 million in lost revenue in 1974, primarily in the form of subsidies to large, highly profitable corporations. Preliminary reports indicate that DISC is costing the Treasury $1.46 in lost revenue for each $1.00 worth of DISC exports.

How DISC Provisions Work. Under existing law, a corporation may elect to be a DISC (a Domestic International Sales Corporation) if at least 95% of its gross receipts, and at least 95% of its assets, are export-related. DISC's are completely free from normal income taxes. Shareholders, however, are taxable on one-half of the DISC's income each year, or the amount distributed as dividends, whichever is greater. Thus, DISC's in effect allow indefinite tax deferral on one-half of export income.

In practice, DISCs are most often paper corporations established by other large corporations merely for the purpose of receiving tax benefits for exports. A DISC need not satisfy normal requirements of corporate capitalization, but need have only $2500 in assets. In 1972, 22% of the income received by all DISCs was earned by eight DISCs with gross receipts over $100 million, and over 80% of the 2,249 DISCs were owned by corporations with assets over $100 million. These large corporations can channel their exports, on either a sale or commission basis, through DISCs they have created, and thus receive substantial tax benefits.

Revenue Gain From Termination of DISC Benefits. The estimated revenue loss from DISC was $250 million in 1972, $500 million in 1973, and will reach $740 million in 1974 and $920 million in 1975. The revenue loss has been much higher than Congress expected when it enacted DISC in 1971—at that time, DISC was predicted to cost only $100 million in 1972 and $170 million in 1973.

Terminating DISC benefits under our amendment would gain an estimated $815 million in 1974—$740 from revenue which would otherwise be lost in 1972, and $75 million from the estimated tax revenue which would be payable in 1974 on DISC income deferred in prior years.

DISC Provisions Have Had No Demonstrable Effect on Increasing Our Export Trade. The U.S. in 1973 enjoyed a $700 million trade surplus, with an unprecedented $70 billion in exports. If the impact of quadrupled oil prices is excluded, the trade surplus has continued to grow in 1974. But when the DISC provisions were originally enacted in 1971, the nation was facing a serious balance of payments deficit, including for the first time in recent years a deficit in trade of goods and services. According to the International Economic Report of the President, the turn-around in the U.S. trade balance was caused primarily by increased world-wide demand for our agricultural and manufactured exports, and the 15% devaluation of the dollar since 1971.

During 1971 and the first half of 1972 our demand for foreign products was strong, and economic slowdowns abroad reduced demand for our exports, producing a negative trade balance. Since then, however, export demand has increased, the prices of our exports have become more competitive, and higher relative prices abroad have reduced our demand for imports.

There is no evidence that any part of this trade turn-around is due to the tax benefits provided under DISC. In fact, the GAO has reported that DISC "is not considered to have had much influence toward increasing U.S. exports to date. Neither has it resulted in exporters lowering their prices to meet competition." And a recent Treasury Department report gives no solid evidence that the tax subsidy under DISC is having an effect on our exports or balance of trade. Although the Treasury analysis, which covers data from 1972, shows that selected firms utilizing DISCs increased their exports 14.1%, slightly more than the total U.S. export growth by 12.4% in that year, the Treasury makes no claim that these figures are statistically significant and admits that their conclusion is "highly tentative." The Treasury Report did show, however, that exporters using DISCs have about twice the normal industry profit rate: 15% compared with the normal 8% rate of return for those industries in which DISCs predominate.

Effective Date. Our amendment would make DISC benefits unavailable for any taxable year beginning after December 31, 1973. Since DISCs are largely an accounting device, utilized by corporations at the end of their taxable years when export receipts, assets and income are accounted for, terminating the DISC provisions as of this tax year would work no unfairness. Taxes on income previously deferred would be payable in equal assessments over ten years.

FACT SHEET ON STRENGTHENED MINIMUM TAX

PURPOSE

1. Repeal the step in the calculation of the minimum tax which currently allows a deduction for other taxes paid.

2. Reduce the current $30,000 exclusion from the minimum tax to $10,000.

The proposed amendment makes no change in the list of tax preferences subject to the minimum tax, and no change in the current 10% rate of the minimum tax. It affects only the deduction for taxes paid and the $30,000 exclusion, the most obvious loopholes in the current minimum tax. The combined revenue gain from both changes would be $926 million.

CURRENT LAW

The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that persons with substantial amounts of untaxed income would pay at least a modest tax on such income. Under the present minimum tax, a person is taxed at the flat rate of 10% on the sum of his income from certain tax preferences, which include most, but not all, of the major preferences in the tax code: accelerated depreciation on real property, accelerated depreciation on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and amortization of on-the-job training and child care facilities.

Before the minimum tax is applied, however, a taxpayer gets two important deductions from his preference income: First, an automatic $30,000 exclusion; Second, a deduction for the regular income tax paid. These two deductions are largely responsible for the failure of the minimum tax to fulfill its promise.

DEDUCTION FOR TAXES PAID

This deduction, originally proposed as a floor amendment in 1969 by Senator Miller of Iowa, allows substantial numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from tax preferences. In 1970, as a separate floor amendment by Senator Miller, the deduction was broadened to allow a 7-year carry-forward of the deduction. In practice, the deduction is an "Executive Suite" loophole, since one of its principal effects is to allow highly paid executives to use the large amount of regular taxes they pay on their salaries as an offset against income they receive from tax preferences. The following example illustrates the point:

	A	B
Preference income	$100,000	$100,000
Regular tax on salary	100,000	0
Base for minimum tax	0	100,000
Minimum tax	0	10,000

Individual A, who has $100,000 in income from tax preferences but pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but who pays no regular taxes, owes a minimum tax of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid lets A escape the minimum tax altogether.

Contrary to arguments often raised against repeal of the deduction for taxes paid, this reform would have only a marginal impact on capital gains. For individuals, the effect of the change would be to increase the effective tax rate on capital gains in the highest bracket from its present level of 36.5% to 40%. But the top 40% rate would apply only to that portion of capital gains over $460,000. Even at that level, it is still a bargain, compared to the top 70% tax rate on ordinary income. In the Tax Reform Act of 1969, the maximum effective tax rate on capital gains was increased from 25% to 36.5%, with no measurable effect on the investment community or the flow of capital to business. For corporations, the change would increase the effective tax rate on capital gains from 30.75% to 33.75%. The Tax Reform Act of 1969 increased the rate from 25% to 30%. For all but the smallest corporations, the tax rate on ordinary income is 48%.

THE $30,000 EXCLUSION

The second part of the amendment would reduce the existing $30,000 exclusion to $10,000. The present level was set too high by the 1969 Act. It enables wealthy taxpayers to enjoy their first $30,000 in tax loophole income, completely free of the minimum tax. This was the provision used by President Nixon to reduce his minimum tax to zero in 1971 and 1972, and to near-zero in 1970.

By reducing the exemption to $10,000, substantial amounts of preference income that are currently tax-free will become subject to the minimum tax. At the same time, the $10,000 level will be high enough to prevent any deleterious impact on low and middle-income taxpayers with modest tax preference income such as a capital gain on the sale of a home. In addition, the $10,000 level will avoid any unnecessary inconvenience in the administration of the minimum tax, since it will not require the forms to be filed or the tax to be paid on modest amounts of tax preference income.

EFFECT OF CURRENT LOOPHOLES

Individuals.—In 1971, 100,000 individuals with tax preferences totaling $6.3 billion paid $169 million in minimum tax, for an effective tax rate of only 2.7%, compared to the statutory rate of 10%. Of this group, 75,000 individuals reporting preference income of $2.3 billion paid no minimum tax at all.

Corporations.—In 1970, 81,000 corporations paid $280 million in minimum tax on loophole income of $5.7 billion, for an effective rate of 4.8%. Of this group, 75,000 corporations, reporting preference income of $1.6 billion, paid no minimum tax at all.

REVENUE GAIN FROM PROPOSED AMENDMENT (1974 INCOME LEVELS)

[Individuals: $526,000,000; corporations: $400,000,000; total: $926,000,000]

ANALYSIS OF REVENUE GAIN FROM INDIVIDUALS

Adjusted gross income class thousands)	Increase in tax liability: Number of returns (thousands)	Increase in tax liability: Amount (millions)
0 to $3	20	$10
$3 to $5	(1)	(1)
$5 to $7	2	1
$7 to $10	2	2
$10 to $15	28	5
$15 to $20	26	8
$20 to $50	88	75
$50 to $100	55	86
$100 and over	43	338
Total	265	626

[1] Less than 500 returns or $500,000.

Note: Details do not add to totals because of rounding.

FACT SHEET ON INDIVIDUAL TAX RELIEF AND INCREASED INVESTMENT TAX CREDIT

$175 Optional Tax Credit. The provision would reduce taxes on the average family by about $100 a year by allowing taxpayers to take a $175 credit for themselves and each of their dependents instead of the existing $750 exemption.

The new $175 credit would be optional. Anyone who wished to continue using the $750 exemption could do so. However, because the $175 credit would be subtracted directly from the final tax due—rather than from the income on which the tax is calculated—it would be worth more in tax savings than the $750 exemption to most families earning $16,000 or less.

The existing $750 personal exemption provides much larger tax savings to the very wealthy than it does to the average American. For those in the highest 70 percent tax bracket—making $200,000 a year and more—each $750 exemption is worth $525. But for someone in the lowest 14 percent bracket making around $5,000 a year, each $750 exemption is worth only $105 in reduced taxes. It provides the most help to those who need it least, and the least help to those who need it most.

The new $175 optional credit would assure that each exemption is worth at least $175 in reduced taxes to everyone who uses it.

The tax savings for families of different sizes are set out in the attached tables.

Over 75 percent of the $3.0 billion in tax relief from the $175 optional tax credit would go to those making between $5,000 and $15,000 a year. The distribution table on the back gives more details on this.

Work Bonus. This provision would extend relief to those with incomes so low they pay no income taxes, but who nonetheless pay substantial Social Security taxes. It would give low income workers with dependent children a refundable tax credit equal to 10 percent of their income up to $4,000, and a gradually smaller percentage of their income up to $5,600. Those whose income tax liability is less than their Work Bonus would receive a direct payment from the Treasury for the difference.

The following table shows the size of the Work Bonus at different income levels:

Annual income of husband and wife subject to social security taxes	*Work bonus*
$2,000	$200
$3,000	300
$4,000	400
$5,000	150
$5,600	0

The Work Bonus was first proposed by Senator Russell Long, and it passed the Senate in November of 1973 by a vote of 57–21.

10 Percent Credit for Expanded Investment. Present law allows an investment tax credit of 7 percent of the cost of qualifying property (generally, tangible personal property used in a trade or business). In effect, 7 percent of the cost of each year's investment in equipment may be subtracted from that year's Federal income tax bill. For utilities, the investment tax credit is 4 percent.

The proposal would allow an investment tax credit of 10 percent (7 percent for utilities) for "expanded investment." This is defined as investment which exceeds the average of qualifying investment in the three preceding years.

Business capital investment and productivity are beginning to lag, and some additional tax stimulus for investment could have a favorable economic impact. At the same time, the continuing pressures of inflation indicate that Federal revenue losses from additional tax incentives should be kept to a minimum. The new 10 percent investment credit is therefore limited to investment in excess of the average of prior years. Investment that does not exceed that average will continue to receive a 7 percent investment tax credit. The stimulative effect of the new 10 percent investment tax credit will therefore not be dissipated on investment which would have taken place in any event, but rather will be concentrated on new investment which probably would not otherwise have been made.

This concept of a higher investment credit for investment in excess of that of prior years was part of the original Kennedy Administration proposal for an investment tax credit in 1961.

DISTRIBUTION OF TOTAL TAX RELIEF FROM $175 OPTIONAL CREDIT

Adjusted gross income class (in thousands)	Percent of taxable returns	Number of returns with tax decrease (in thousands)	Amount of tax relief (in millions)	Percent of total relief
0 to $3	5.3	4,057	$176	5.8
$3 to $5	12.7	7,579	415	13.7
$5 to $7	14.3	8,273	548	18.1
$7 to $10	20.1	8,950	834	27.6
$10 to $15	25.6	12,698	905	29.9
$15 to $20	12.4	3,351	136	4.5
$20 to $50	8.7	162	7	.2
$50 to $100	.7	2	(1)	0
$100 and over	.2	(1)	(1)	0
Total	100.0	45,072	3,022	100.0

[1] Less than 500 returns or $500,000.

"Breakeven" points (income levels at which tax savings from present $750 exemption begin to exceed savings from $175 credit):

Single person	$7,883.33
Married couple with no dependents	14,901.96
Married couple with 1 dependent	15,294.12
Married couple with 2 dependents	15,686.27
Married couple with 3 dependents	16,078.44
Married couple with 4 dependents	16,470.59

$175 OPTIONAL TAX CREDIT—TAX SAVINGS

[Assumes personal deductions of 15 percent of income]

Adjusted gross income	Present tax	Tax with $175 credit	Tax saving
Married couple with 4 dependents:			
$3,000			
$5,000			
$6,000	$28	$0	$28
$8,000	322	83	239
$10,000	620	440	180
$12,500	1,024	908	116
$15,000	1,435	1,398	37
$17,500	1,903	1,903	0
$20,000	2,385	2,385	0
Married couple with 2 dependents:			
$3,000			
$5,000	98	0	98
$6,000	245	53	192
$8,000	569	433	136
$10,000	905	790	115
$12,500	1,309	1,258	51
$15,000	1,765	1,748	17
$17,500	2,233	2,233	0
$20,000	2,760	2,760	0
Married couple with 1 dependent:			
$3,000			
$5,000	208	44	164
$6,000	362	228	134
$8,000	706	608	98
$10,000	1,048	965	83
$12,500	1,463	1,433	30
$15,000	1,930	1,923	7
$17,000	2,416	2,416	0
$20,000	2,948	2,948	0
Married couple with no dependents:			
$3,000	28		28
$5,000	322	219	103
$6,000	484	403	81
$8,000	848	783	65
$10,000	1,190	1,140	50
$12,500	1,628	1,608	20
$15,000	2,095	2,095	0
$17,500	2,604	2,604	8
$20,000	3,135	3,135	0
Single person:			
$3,000	138	84	54
$5,000	491	458	33
$6,000	681	662	19
$8,000	1,100	1,100	0
$10,000	1,530	1,530	0
$12,500	2,059	2,059	0
$15,000	2,630	2,630	0
$17,500	3,249	3,249	0
$20,000	3,915	3,915	0

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PROCEEDINGS AND DEBATES OF THE 93^{d} CONGRESS, SECOND SESSION

Vol. 120 WASHINGTON, MONDAY, DECEMBER 9, 1974 *No. 170*

Senate

UNITED STATES-SOVIET STRATEGIC TALKS

Mr. NELSON. Mr. President, as Senators know, the senior Senator from Minnesota (Mr. MONDALE) recently returned from a very fruitful work-visit in the Soviet Union. There he exchanged views with some of Russia's most important decision-makers.

Upon his return, he delivered a very important speech on the subject of United States-Soviet strategic talks as part of the prestigious Kennedy Lectureship series at Johns Hopkins University in Baltimore.

This speech should be carefully examined by all those concerned about the developing nature of the strategic arms limitation talks, the most recent of which occurred at the summit at Vladivostok. It demonstrates great insight and depth of analysis; a profound sensitivity to the constraints threatening efforts to fashion a détente policy; and a forceful, straightforward, and fearless willingness to explore the rather discouraging ramifications of the recent Vladivostok agreement. Indeed, Senator MONDALE concludes that:

> The two sides seem to have taken their strategic weapons programs, stapled them together, and called that a SALT breakthrough.

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

SPEECH BY SENATOR WALTER F. MONDALE

It is an honor and a privilege to be here this evening to speak to you about the question of our relations with the Soviet Union.

I have just returned from a visit to the Soviet Union. I spent a week there, where at the request of the farmers of Minnesota, I took a great deal of time making an inventory of our wheat crop. More seriously, I spoke to Premier Kosygin for three and one-half hours, to Foreign Minister Gromyko for a couple of hours and to various other Soviet officials.

Since my visit, we have had the Summit meeting at Vladivostok between General Secretary Brezhnev and President Ford. I believe that meeting, what it produced, and what it failed to produce, demonstrates both the difficulties and the dangers inherent in this process that has been called detente.

According to the White House, the main accomplishment of the Vladivostok Summit was the agreement to limit Strategic Arms. This agreement was presented to the press as a breakthrough, as a major achievement in the effort to gain control over strategic arms race.

I believe this claim will not stand up to analysis. The Vladivostok agreement will do little to alleviate the arms race and, in fact, there is a grave danger that the agreement may stimulate it.

President Ford has said the agreement will put a cap on the arms race. From his description last night, it sounds more like a huge tent that the President intends to fill up with new weapons.

When I first read of the agreement, I expressed concern that it not be a cosmetic deal, one that simply put a good face on the arms race. On close inspection, I am afraid that my concern was justified.

Let's take a careful look at what the agreement involves:

First, the agreement places an overall numerical limit on strategic delivery systems, that is strategic missiles and bombers. The overall level is 2,400, our level today is around 2,250 and the Russian level is 2,500.

Second, there is a sublimit on the number of strategic missiles that can carry MIRVs—the multiple independently targeted warheads that enable each missile to drop weapons on several different targets. Each side will get 1,300 MIRV missiles. Bear in mind that today, the United States has deployed about 750 MIRVed missiles and the Russians have deployed none. It may not surprise anyone to know the Pentagon has planned to deploy 1,300 MIRV missiles all along.

There may be other limitations involved in the final agreement. But, at this stage, it appears that within the overall limit of 2,400 missiles and bombers, both sides can change from missiles to bombers or, substitue submarine missiles for land-based missiles, as much as they wish.

And within the so-called MIRV limit, any number of MIRVs of any size may be deployed. Whole new generations of MIRV missiles may be deployed on each side. Maneuvering warheads, those that can home in on their targets, are not precluded. And, of course, we shall have to deploy additional MIRV missiles in order to fill our quota under the 1,300 MIRV missile sublimit.

In sum, the two sides seem to have taken their strategic weapons programs, stapled them together, and call that a SALT breakthrough.

Nonetheless, there are some advantages to this agreement.

The agreement demonstrates that quite apart from the substantive issues, both sides want to achieve further agreements and pursue a policy of detente.

Second, it ends uncertainty about the durability of the 1972 SALT agreement. This agreement, when final, will replace the interim SALT Agreement on offensive missiles which runs out in 1977. There has been increasing concern that it would be more and more difficult as we approached the 1976 election to renew the interim agreement or replace it. If it had expired, there was a risk that the ABM Treaty might also collapse—sending us into an arms race on defensive as well as offensive weapons.

Finally, it places at least some theoretical boundries around the strategic arms competition but how effective these will be is questionable.

In fact, the major disadvantages to this agreement all center on the fact that the Agreement will have little or no real impact on the strategic arms race.

First of all, the Vladivostok agreement doesn't deal with the real strategic problems we face. The main strategic problem today is that Soviet MIRV deployments will make our fixed land-based ICBM force extremely vulnerable to a first strike, this undermining strategic stability.

Up to now, what security and sanity there is in the field of strategic arms was due to the fact that the major components of our deterrent, the ICBMs, the submarine-launched missiles, etc. were invulnerable, and that a potential attacker would suffer an overwhelming retaliatory blow in response to a first strike. Since the time of Robert McNamara, we have had a strategy of riding-out an attack and then retaliating.

Under the new SALT Agreement, this strategy will no longer be possible in the future, at least so far as our ICBMs are concerned. The Minuteman ICBM force of the United States is going to grow increasingly vulnerable to a surprise first strike as the new Soviet MIRV missiles become widely deployed.

It would be an exaggeration to say that this growing vulnerability of our ICBMs will lead to a nuclear war. We will still have a large bomber force and enormous submarine missile force. The risks run by any aggressor in thinking he could attack our ICBMs with impunity, would be incalculable.

But the risks to us will increase too, and the strategic balance will be less stable. For example, the limited option strategy of this administration will become a recipe for disaster. Premier Kosygin made this point to me very clearly. He said that if one side starts shooting nuclear weapons in the limited manner proposed by Secretary Schlesinger, then the other side would have no choice but to attack the nuclear forces of the other side. Right now it would make no sense to attack our ICBMs for they are essentially invulnerable. But once the Soviet Union carries out the MIRV program permitted under this agreement, our Minuteman ICBMs will be sitting ducks.

In addition to increased risks and tensions, the growing vulnerability of our ICBMs will also provide further justification for a wide variety of new strategic programs as compensation. Air-launched ICBMs, land-mobile ICBMs, more Tridents—the costs could well run into the tens-of-billions. This burden will go on top of an economy already strained to the breaking point by inflation and recession.

In addition to not dealing with the problem of strategic stability, the strategic arms agreement announced at Vladivostok also fails to curb the competition in strategic programs. The currently planned programs on both sides will not be affected. The B–1 will continue. The Trident submarine will continue. Last summer, it was reliably reported that the Soviet Union wanted a limit of 1,000 MIRVed missiles. Now, thanks to the Vladivostok breakthrough, they will get 1,300.

The qualitative arms race is where the action is today, more capable systems are replacing older ones on both sides.

No real limits on this process are imposed by the Vladivostok Agreement. The only limit on the qualitative race will be man's ingenuity.

But the agreement is not merely inadequate, it actually licenses an arms build up. Last night the President said we have an obligation to step up to the levels of the agreement. That means we must increase by about 200 delivery vehicles and about 500 MIRV missiles. The minimum price for this agreement then will be about 40 billion dollars in new weapons.

But in addition, the President said that if we want to be truly equal in every respect we could replace Minuteman with a new larger ICBM to match the Soviet's big ICBMs. According to the Pentagon, this could cost another 30 billion dollars. So the total price tag for this agreement could well run more than 70 billion dollars—not including operating costs. No wonder the President does not expect this breakthrough to have any effect on reducing the strategic arms budget.

On the Soviet side, the President claims that there will be reductions. But at the most, the Soviets will reduce their number of active missile silos by less than a hundred, while they are likely to increase the number of missile warheads by several thousand. And, as General Secretary Brezhnev once pointed out to us, no one was ever killed by a missile silo.

This agreement is already under attack in the Congress. One of the main critcisms is that the agreement isn't really equal—that the Soviet Union will be given an enormous advantage in both the number and power of MIRVs they can deploy.

This is a fair criticism, but it misses the point. In fact, I believe that those who have been pressing equality as the primary yardstick for success in SALT are reaping the bitter benefits of that approach. This agreement shows that equality alone means little if the forces of the two sides are going to grow increasingly vulnerable and the strategic balance increasingly unstable. Equality is a charade if the arms race, in fact, continues.

And this, precisely, is the problem: the Vladivostok agreement does nothing to really constrain the ongoing strategic arms programs of the two sides nor limit the enormous turnover in the inventory of ever more modern, ever more dangerous weaponry. Unless it is significantly strengthened, I believe that a concrete accord based on the Vladivostock agreement may well not receive the necessary two-thirds support of the Senate.

How can this agreement be strengthened? First of all, I would suggest that within the numerical levels established by the agreement, the strategic programs of the two sides should be stretched-out and delayed as much as possible. I would like to see controls whereby only ten of the enormous Soviet SS-18 ICBM would be deployed each year for the next ten years; and only 50 of the other new Soviet missiles are deployed each year. In response, we could hold down the rate of deployment of our Trident and hold construction of the B-1 bomber to an appropriately restrained pace.

Second, in addition to controls on the pace of deployment, I would urge controls on the pace of testing of new and the ever more exotic systems. There should be an annual quota on the flight testing of new nuclear delivery systems. Together, controls on deployment and controls on testing would put real teeth into the limitation of strategic arms within the overall numbers agreement reached in Vladivostok.

Third, we must continue negotiating. This agreement is only a start not an end point. We can't just knock off work until 1980 as was suggested in Vladivostok. With all that will be permitted under even an improved version of this agreement there will be plenty to negotiate about.

What conclusions can we draw from this experience about the conduct of U.S.-Soviet relations? I think the lessons are as follows.

Despite its serious shortcomings and drawbacks, I think it can be said that this SALT agreement does constitute a modest beginning. If it had been presented as such, I believe that it would have been accepted by the American people as a step forward.

But unfortunately, it was not presented in that fashion. The public relations men who still surround the White House could not restrain themselves from overselling the agreement. And so the product is more disillusion, more suspicion and more concern that detente is rhetoric and not reality. The real damage in this agreement is that it further undermines the faith of the American people in the process of trying to control strategic arms and trying to improve relations with the Soviet Union.

How often have we seen American Presidents in political trouble at home trying to divert attention by meeting with the General Secretary of the Soviet Union. And in those circumstances, how often have we seen the pressure to "bring home the bacon" result in empty agreements.

The Test Ban Agreement reached earlier this year between Mr. Nixon and Mr. Brezhnev is another example. It doesn't even go into effect for two years and then places a limit higher than we want to test anyway. However, in case either side has miscalculated, it leaves a loophole so that both sides can test whatever they like as long as it is called a peaceful nuclear explosion.

These kinds of empty agreements are the result of American Presidents trying to take action abroad to shore up their domestic position at home. I can think of no more healthy development in our foreign relations than to see an American President go to the Soviet Union, meet with the General Secretary, speak frankly about our needs and concerns and, if there isn't any real agreement, come home empty handed for a change.

I have long been known as one who favors improved relations with the Soviet Union. I believe, as Senator Mike Mansfield has said, "that in the nuclear age there is no alternative to detente." But detente must be a practical detente. It cannot be a rhetorical detente. It must come to grips with the critical issues; it must really control strategic arms; it must deal effectively with the crisis in the Middle East; and, it must preclude efforts by the Soviet Union to take advantage of the economic and political disarray in the West.

As I left the Soviet Union, I could not help but think that the most important ingredient in a viable relationship with the Soviet Union is our own strength, our own sense of purpose. Weapons are important, but even more crucial is the strength of our economy, the strength of our relationships with our allies, the strength of the international economy, the strength of our political institutions, the strength of our society.

Hugh Sidey, the Washington correspondent for *TIME* magazine, has urged the President to "give the big planes a rest. I believe that is sound advice. He should stay home, concentrate on our own internal problems and on the common economic security problems of the industrialized nations of the West.

I believe that if the President wants to advance the cause of peace, if he wishes to once again establish the United States as a strong negotiating partner, he can do this best by remaining at home and tackling our mounting economic problems. Only effective leadership at home can restore to this nation the sense of confidence, the spirit of sacrifice, and the willingness to lead that has characterized the American people and has ensured world peace for more than a generation.

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But the risks to us will increase too, and the strategic balance will be less stable. For example, the limited option strategy of this administration will become a recipe for disaster. Premier Kosygin made this point to me very clearly. He said that if one side starts shooting nuclear weapons in the limited manner proposed by Secretary Schlesinger, then the other side would have no choice but to attack the nuclear forces of the other side. Right now it would make no sense to attack our ICBMs for they are essentially invulnerable. But once the Soviet Union carries out the MIRV program permitted under this agreement, our Minuteman ICBMs will be sitting ducks.

In addition to increased risks and tensions, the growing vulnerability of our ICBMs will also provide further justification for a wide variety of new strategic programs as compensation. Air-launched ICBMs, land-mobile ICBMs, more Tridents—the costs could well run into the tens-of-billions. This burden will go on top of an economy already strained to the breaking point by inflation and recession.

In addition to not dealing with the problem of strategic stability, the strategic arms agreement announced at Vladivostok also fails to curb the competition in strategic programs. The currently planned programs on both sides will not be affected. The B-1 will continue. The Trident submarine will continue. Last summer, it was reliably reported that the Soviet Union wanted a limit of 1,000 MIRVed missiles. Now, thanks to the Vladivostok breakthrough, they will get 1,300.

The qualitative arms race is where the action is today, more capable systems are replacing older ones on both sides.

No real limits on this process are imposed by the Vladivostok Agreement. The only limit on the qualitative race will be man's ingenuity.

But the agreement is not merely inadequate, it actually licenses an arms build up. Last night the President said we have an obligation to step up to the levels of the agreement. That means we must increase by about 200 delivery vehicles and about 500 MIRV missiles. The minimum price for this agreement then will be about 40 billion dollars in new weapons.

But in addition, the President said that if we want to be truly equal in every respect we could replace Minuteman with a new larger ICBM to match the Soviet's big ICBMs. According to the Pentagon, this could cost another 30 billion dollars. So the total price tag for this agreement could well run more than 70 billion dollars—not including operating costs. No wonder the President does not expect this breakthrough to have any effect on reducing the strategic arms budget.

On the Soviet side, the President claims that there will be reductions. But at the most, the Soviets will reduce their number of active missile silos by less than a hundred, while they are likely to increase the number of missile warheads by several thousand. And, as General Secretary Brezhnev once pointed out to us, no one was ever killed by a missile silo.

This agreement is already under attack in the Congress. One of the main critcisms is that the agreement isn't really equal—that the Soviet Union will be given an enormous advantage in both the number and power of MIRVs they can deploy.

This is a fair criticism, but it misses the point. In fact, I believe that those who have been pressing equality as the primary yardstick for success in SALT are reaping the bitter benefits of that approach. This agreement shows that equality alone means little if the forces of the two sides are going to grow increasingly vulnerable and the strategic balance increasingly unstable. Equality is a charade if the arms race, in fact, continues.

And this, precisely, is the problem: the Vladivostok agreement does nothing to really constrain the ongoing strategic arms programs of the two sides nor limit the enormous turnover in the inventory of ever more modern, ever more dangerous weaponry. Unless it is significantly strengthened, I believe that a concrete accord based on the Vladivostock agreement may well not receive the necessary two-thirds support of the Senate.

How can this agreement be strengthened? First of all, I would suggest that within the numerical levels established by the agreement, the strategic programs of the two sides should be stretched-out and delayed as much as possible. I would like to see controls whereby only ten of the enormous Soviet SS-18 ICBM would be deployed each year for the next ten years; and only 50 of the other new Soviet missiles are deployed each year. In response, we could hold down the rate of deployment of our Trident and hold construction of the B-1 bomber to an appropriately restrained pace.

Second, in addition to controls on the pace of deployment, I would urge controls on the pace of testing of new and the ever more exotic systems. There should be an annual quota on the flight testing of new nuclear delivery systems. Together, controls on deployment and controls on testing would put real teeth into the limitation of strategic arms within the overall numbers agreement reached in Vladivostok.

Third, we must continue negotiating. This agreement is only a start not an end point. We can't just knock off work until 1980 as was suggested in Vladivostok. With all that will be permitted under even an improved version of this agreement there will be plenty to negotiate about.

What conclusions can we draw from this experience about the conduct of U.S.-Soviet relations? I think the lessons are as follows.

Despite its serious shortcomings and drawbacks, I think it can be said that this SALT agreement does constitute a modest beginning. If it had been presented as such, I believe that it would have been accepted by the American people as a step forward.

But unfortunately, it was not presented in that fashion. The public relations men who still surround the White House could not restrain themselves from overselling the agreement. And so the product is more disillusion, more suspicion and more concern that detente is rhetoric and not reality. The real damage in this agreement is that it further undermines the faith of the American people in the process of trying to control strategic arms and trying to improve relations with the Soviet Union.

How often have we seen American Presidents in political trouble at home trying to divert attention by meeting with the General Secretary of the Soviet Union. And in those circumstances, how often have we seen the pressure to "bring home the bacon" result in empty agreements.

The Test Ban Agreement reached earlier this year between Mr. Nixon and Mr. Brezhnev is another example. It doesn't even go into effect for two years and then places a limit higher than we want to test anyway. However, in case either side has miscalculated, it leaves a loophole so that both sides can test whatever they like as long as it is called a peaceful nuclear explosion.

These kinds of empty agreements are the result of American Presidents trying to take action abroad to shore up their domestic position at home. I can think of no more healthy development in our foreign relations than to see an American President go to the Soviet Union, meet with the General Secretary, speak frankly about our needs and concerns and, if there isn't any real agreement, come home empty handed for a change.

I have long been known as one who favors improved relations with the Soviet Union. I believe, as Senator Mike Mansfield has said, "that in the nuclear age there is no alternative to detente." But detente must be a practical detente. It cannot be a rhetorical detente. It must come to grips with the critical issues; it must really control strategic arms; it must deal effectively with the crisis in the Middle East; and, it must preclude efforts by the Soviet Union to take advantage of the economic and political disarray in the West.

As I left the Soviet Union, I could not help but think that the most important ingredient in a viable relationship with the Soviet Union is our own strength, our own sense of purpose. Weapons are important, but even more crucial is the strength of our economy, the strength of our relationships with our allies, the strength of the international economy, the strength of our political institutions, the strength of our society.

Hugh Sidey, the Washington correspondent for *TIME* magazine, has urged the President to "give the big planes a rest. I believe that is sound advice. He should stay home, concentrate on our own internal problems and on the common economic security problems of the industrialized nations of the West.

I believe that if the President wants to advance the cause of peace, if he wishes to once again establish the United States as a strong negotiating partner, he can do this best by remaining at home and tackling our mounting economic problems. Only effective leadership at home can restore to this nation the sense of confidence, the spirit of sacrifice, and the willingness to lead that has characterized the American people and has ensured world peace for more than a generation.

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Senate

Mr. MONDALE. Mr. President, the consideration of the nomination of Nelson Rockefeller to be Vice President of the United States by the Senate Committee on Rules Administration probably represents the most careful and in-depth confirmation inquiry ever conducted by a Senate committee. This particular confirmation inquiry was enormously difficult in view of the nominee's enormous wealth, complicated financial holdings, and long record of public service.

Yet, for the second time in less than 1 year, the Rules Committee has performed its important responsibilities in the context of a Vice Presidential nomination with dedication, seriousness, perceptiveness, and dispatch. I wish to compliment the distinguished chairman (Mr. CANNON) and the members of the committee for a job well done and thank them for providing all of the Members of the Senate with the material necessary to the exercise of our important responsibility under the 25th amendment.

We in Congress are given a most solemn responsibility under the 25th amendment. For the people, we must examine and approve a Vice President—and potential President—of the United States. We are charged with substituting our judgment for the judgment of 98 million American voters in confirming the Vice President.

Our responsibility would be awesome under any circumstances. But, in the aftermath of Watergate—just as the people are scrutinizing potential officeholders extra-carefully—so too we must be especially careful as we approve a new Vice President.

The public is tired of secrecy and manipulation. The public is fed up with abuse of official power. The public will not tolerate conflict of interest. The public wants no more of "dirty tricks" or scandals. The American people want leaders who are open, honest, compassionate, and dedicated to working toward solutions for the problems facing this Nation.

In light of the context in which we consider the nomination of Nelson Rockefeller and the importance of our responsibility, I have carefully followed the work of the Rules Committee, have communicated with the nominee himself, and have studied all available materials with utmost care.

I have concluded, Mr. President, that I will vote for the confirmation of Nelson Rockefeller. Mr. Rockefeller's service to local government, to the State of New York, and to the Nation extends over nearly four decades. He has made important contributions in the field of foreign relatitons—particularly Inter-American relations; has worked in the executive branch of the National Government; has served as Governor of New York for 15 years; has served in public office at the local and county government level—has been a member of dozens of public and private task forces, commissions, and advisory bodies; and has worked on behalf of many charitable and humanitarian causes.

This country urgently needs a Vice President. President Ford has nominated Nelson Rockefeller and has indicated his belief that he will be able to work well with his nominee. Nelson Rockefeller has the ability to serve in that high office and has told of his desire to work with the President for the public good.

I must add, however, that I have reservations about this nominee and that certain questions concern me. As we all know, Nelson Rockefeller is an enormously wealthy man. His assets and those of his immediate family total approximately a quarter of a million dollars. The assets of the entire Rockefeller family exceed $1 billion.

The Rockefeller investments, moreover, are concentrated in industries and companies whose profits often turn on governmental decisions. One need only look at the list of Rockefeller holdings—Continental Oil Co., Exxon Corp., Marathon Oil Co., Mobil Oil Corp., Standard Oil, Dow Chemical, General Electric, IBM Corp., and Gulf Oil.

The Rockefeller wealth and the location of that wealth raise a significant conflict of interest question. Can the nominee—as Vice President or President—make decisions free of personal, economic considerations? I believe the distinguished Rules Committee chairman (Mr. CANNON) expressed my concern well when, during the hearings, he stated:

> (T)he economic power which you and your family exert directly and indirectly upon the domestic and international economy in oil, real estate, banks, insurance, and many other endeavors, gives rise to a question which must be paramount in the minds of many citizens. That question is: How can you conduct yourself in office in a manner that would avoid even the appearance of conflict of interest when decisions you will be called upon to make cannot help but influence the profits and losses of one or more of your holdings?

In addition, I am most concerned that this vast economic power, when combined with the political power of a Vice President or President, may create grave potential for abuse. The distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) put this question well during the hearings when he asked:

> Would the combination of these two—great economic wealth plus great political power—in your judgment clothe the office of the Vice Presidency or the Presidency with an inordinate great power, certainly a far greater power than either of those offices would ordinarily clothe the average occupant whose financial means is much less than yours?

These general concerns trouble me greatly. I trust and believe that public awareness, public disclosure, Mr. Rockefeller's sensitivity to the potentials inherent in his wealth, and steps which he might take in light of this awareness can remove any problems which might exist.

There are two more particular matters which concern me also, Mr. President, and about which I would like to comment briefly. First, the Rules Committee has spent a great deal of time inquiring into Mr. Rockefeller's role in the financing of a book about Mr. Justice Arthur Goldberg, who was Mr. Rockefeller's opponent in the election for Governor of New York in 1970. Even assuming Mr. Rockefeller did no more than become aware of the book and aid in securing financing for it, I fully agree with the Rules Committee when it concludes that—

> Nelson Rockefeller exercised poor judgment when he was informed initially about the book and by his action gave tacit agreement to its publication.

At the worst, this incident represents conduct reminiscent of the Nixon era dirty tricks. The manner in which the truth about the incident was revealed raises grave doubts in my mind. I cannot excuse this matter; I cannot condone it.

In addition, Mr. Rockefeller has made several million dollars in gifts and/or loans over a period of 20 years to New York State public officials and others, including friends, aides, and political associates. The circumstances surrounding some of these gifts and/or loans raise serious questions of judgment and propriety. Aside from questions of their legality, I cannot ignore the questions of judgment and propriety.

I sincerely hope that Mr. Rockefeller has learned from these incidents. I sincerely hope that he will not engage in similar conduct in the future. The country cannot stand the consequences, and the American public will not stand for it.

If the work of the Senate Rules Committee and the other aspects of the confirmation process can serve as a learning experience for Mr. Rockefeller, we will all be the beneficiaries. Hopefully, he has seen the questionable nature of certain past conduct, and will act—or refrain from acting—accordingly. Hopefully, he is now aware of the questions which the existence of his enormous wealth raise and the potentials for abuse that go along with that wealth. He can act to remove those questions and minimize that potential. I hope that he will. Although I would favor divestiture, I understand Mr. Rockefeller will act to place his assets in a blind trust. Let us all hope that he will insure that the trust is truly blind and that even the appearance of impropriety will be removed.

Mr. President, I would like to close with one final point. During his confirmation hearings, Mr. Rockefeller uttered a very telling statement to the effect that a very large amount of money is to him as a small amount of money is to another. I sincerely hope that the former can truly appreciate the needs, hopes, problems, and concerns of the latter.

Dealing with the pressing domestic needs of our people at this time in history requires, in my opinion, a true sensitivity to those needs. Mr. Rockefeller lives in a word different from the world of the average American. Above all else, I hope that he realizes this. I hope that he will, as Vice President of the United States, do all that is within his power to meet the needs—to solve the problems—of the citizens of Minnesota and the citizens of this entire Nation.

With this hope, I vote to confirm the nomination of Nelson Rockefeller.

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Senate

Mr. MONDALE. Mr. President, the Committee on Finance, under the able leadership of the distinguished Senator from Louisiana has labored for several months on the development of the trade bill which is now pending. Many of us participated day after day for hours, seeking to respond to the legitimate needs and concerns of Americans from all walks of life. We drew heavily on the work of the House of Representatives, which had earlier passed this bill.

There should be no lengthy debate on the Trade Reform Act. The principal issue before the Senate is too clearly drawn. It is drawn not along narrow partisan lines, nor along the lines that divide one interest group from another. For the overriding question we must decide is whether the United States will continue to exercise the leadership required of a great nation as we enter the final quarter of this century.

America has played a unique role in world affairs during the postwar era. We have exercised our substantial influence not simply to gain short-term advantage, but rather to enhance the long-range prosperity of our country and that of our allies abroad. We have not been blind to our own interests. But we have recognized that our own economic security depends upon an open, healthy, and stable world economy. It is this understanding that prompted U.S. initiative to build more effective international economic institutions in the GATT and the International Monetary Fund.

Since 1970 our economy and those of our partners in the world trading system have entered a period of turbulence unknown since the 1930's. Unprecedented rates of inflation, mounting worldwide unemployment, and the massive payments deficits afflicting oil consuming countries have placed enormous strains on the GATT member nations.

In the face of this deepening turmoil, there is a growing temptation for nations to turn inward, to seek solutions to problems of inflation, unemployment, and payments deficits by erecting new barriers to trade. This tendency is perhaps best reflected in the problems with our trade relations with Canada. Recent actions by both the Canadian and U.S. Governments, concerning imports of beef and exports of petroleum, raise the possibility of a serious trade war.

Protectionism is no solution to the economic problems we face. A highly industrialized country like the United States would suffer greatly if the doors to international commerce were closed. Export markets provide jobs for more than 3 million people and over 7.7 percent of the U.S. workforce engaged in manufacturing. We are dependent upon imports for many raw materials, like manganese, tin, zinc, tungsten, aluminum, nickel, and chromium, that are critical to the production of steel and other industrial products required by our domestic economy.

Policies predicated upon a beggar thy neighbor attitude also inevitably lead to political confrontations that might irreparably damage the possibility for cooperation on the critical issue of oil.

Our ability to bring pressure upon the oil cartel to modify policies that are not just painful, but ruinous to the world economic system, depends directly upon our ability to enlist the cooperation of other oil consuming countries.

And it is clear that we will never convince our allies of our own commitment to cooperation unless we take the first step of passing a trade bill.

At this critical moment, all eyes are on the United States. Our rejection of enabling legislation to permit collective trade talks would inevitably be interpreted as a signal that we have forsaken the path of international cooperation. Such action would give ammunition to those in other countries who advocate economic nationalism, and it would surely give hope to OPEC that years may elapse before the United States and Europe will be able to formulate a common response to the most difficult of all trade problems—the oil crisis.

In the face of the overwhelming necessity for world economic cooperation, only the most compelling arguments ought to detain the Senate from the task of passing the trade bill.

At one point the issue of emigration from the Soviet Union and other Communist countries raised just such an argument. However, as a result of the agreement reached in Washington last October, the need for passage of the trade bill with the Jackson amendment and waiver becomes even more critical.

In a recent visit to the Soviet Union, I discussed this issue extensively with the Soviet leaders and with the Soviet Jews who have been hoping to emigrate, many of them for many years. It was abundantly clear, particularly from the standpoint of the Jewish leaders, that passage of this trade bill is regarded with hope as a means to help realize their hopes of emigration.

When the Jackson amendment is raised, I should like to discuss at greater length the details of the agreement in relation to specific cases of individuals who are hoping to emigrate. At this time I should like to add only that I was quite pleased and satisfied by the breakthrough on this important issue of human rights; and I think we must now assure that the agreement is implemented by passing the trade bill.

Various individuals have suggested that for domestic economic reasons the trade bill should not be approved by the Congress.

Let us look at the impact of the trade bill on our domestic economy. Many serious questions have been raised about the impact of expanded trade on working men and women. In its consideration of the Trade Reform Act, the Finance Committee carefully weighed the impact of this legislation on jobs, particularly in the manufacturing sector of our economy. The committee was especially concerned about the declining share of our workforce engaged in manufacturing.

Nonetheless, despite increased imports since 1960, employment in manufacturing has increased on an absolute basis from 16.8 million jobs to roughly 20 million jobs through the first half of 1973. Statistics suggest that to a large extent increased productivity among production workers compared with service-oriented employment, rather than imports, have been responsible for the changing composition of our workforce.

Although fears have been voiced that the Trade Reform Act might pose a threat to jobs, the evidence shows that the opposite is true—that increased trade will result in more jobs and better and more highly paid jobs. Liberalization of trade barriers could permit us to take advantage of the competitive advantage which we enjoy in telecommunications, computer technology, aeronautics, petrochemicals, and similar industries which are both labor intensive and highly skilled.

In 1974 alone, rising U.S. trade surpluses in products such as nonelectrical machinery, aircraft, computers and basic chemicals have contributed more than $16 billion to our balance of trade account—$5 billion more than in 1973—creating jobs for American workers and helping to strengthen the value of the dollar. Even in many areas where the United States has suffered from declining trade balances in recent years, including textiles, clothing, footwear, consumer electronics, and steel products, performance in 1974 improved over that of 1973.

Unfortunately, at the time that the Trade Reform Act was first proposed, the United States was experiencing disastrous trade deficits as a result of overvaluation of the dollar in relation to foreign currencies. Thus, from an average rate of growth in imports of 7.3 percent in 1960–65, the United States absorbed a 13.3-percent increase in imports between 1965 and 1970. By 1972, imports had soared to an incredible 21.9-percent rate of growth.

Two devaluations of the dollar have helped to alleviate this problem. Our trade balance has improved significantly despite a disastrous $18 billion increase in the cost of imported oil. In fact, on a CIF basis, in 1974 the United States is now running a $3.4 billion surplus in trade in manufactured products. We are running an $11.5 billion surplus in agricultural products.

To be certain there are many serious trade problems that must be corrected if the United States is to enjoy the full benefits of a more open trading system. Other countries have used a variety of devices including variable levies, export subsidies, import equalization fees, border taxes, cartels, discriminatory government procurement practices, import quotas, and other methods to shelter their own economies while seeking greater access to U.S. markets. These practices have in many cases sharply limited the competitive opportunities of U.S. business abroad. But our failure to pass trade legislation would not eliminate discriminatory treatment of U.S. goods in overseas markets. On the contrary it would in all probability lead to greater inequities as other nations follow our example by turning inward.

No major sector of our economy—certainly not workers—would benefit by Senate action to close off the avenue of negotiation for settlement of our trade difficulties.

What of consumers? In a December 8 editorial, the Washington Post properly noted that the Trade Reform Act is the most important consumer bill of the year. To the consumer trade offers a means to increase the variety and to lower the cost of items he buys. Increased competition can stimulate domestic industries to lower selling prices or to adjust output to meet changing consumer needs and preferences.

American businesses benefit from liberalized trade by gaining greater access to overseas markets and to supplies of raw materials and semimanufactures required for domestic production processes. In 1974 exports added $96 billion to our gross national product, up from $38 billion just 5 years ago. In the State of Minnesota alone, more than 800 companies are actively engaged in international trade, adding $1 billion to the State's income from manufacturing and creating 12,000 jobs that are totally dependent upon exports.

Finally, trade is essential to the livelihood of the American farmer. According to the Bureau of Labor Statistics, trade accounted for 12.6 percent of total private employment in agriculture in 1972. U.S. exports of agricultural products this year are running at an annual rate of $21.9 billion, compared with $17.7 billion in 1973 and $9.4 billion in 1972. The State of Minnesota, which is one of the leading agricultural exporters in the United States, earned $1.2 billion as a result of agricultural export sales in fiscal 1974.

Turning to provisions of the bill itself, the pending measure—like its counterpart in the House—provides the authority for the U.S. negotiators to seek agreements which would lower tariff and nontariff barriers to trade. But as a result of several amendments which I offered in the Finance Committee, the Senate bill would go beyond the House version to address the critical issue of assuring not simply access to markets, but also access to supplies of raw materials required by the United States.

Over the past 2 years we have seen an alarming trend toward the formation and use of producer cartels to artificially increase the price of raw materials. The dangers in this movement are readily seen in the economic chaos generated by OPEC. Last December I warned that the example set by the Arab States could easily be followed by monopoly producers of other vital raw materials. Since then, we have seen disturbing evidence of this prediction's coming true.

Bauxite producers have combined to create the International Bauxite Association, setting the stage for Jamaica to press for a 600-percent increase in its earnings.

Through the International Council of Copper Exporting Countries, copper exporters are now pressing for greater control of the market.

Phosphate producers have achieved a threefold increase in prices, and members of the International Tin Agreement are seeking a 50-percent increase in the floor price for tin.

Coffee producers are starting to dominate markets, and other commodity producers may soon join the stampede toward cartelization.

In an era marked by spreading shortages of food and raw materials, there is a high likelihood for success of efforts to drive prices higher by limiting production of critical commodities.

And as Ambassador Eberle told the Joint Economic Committee the other day, the existing GATT articles are "virtually worthless" in attempting to deal with collusion among raw materials suppliers.

Although the GATT articles contain provisions relating to the use of export embargoes, these provisions are riddled with loopholes and have not been enforced. In fact, the major thrust of the GATT has been toward import restrictions; and until now little attention has been paid to the critical issue of supply access.

My amendments, which are incorporated in titles I and III of the Trade Reform Act, are designed to make access to supplies a negotiating objective of equal importance to access to markets. This goal is articulated in chapter I of the bill under General Negotiating Authority and also in chapter II, Reform of the GATT. Under the latter section, the President would be directed to seek to strengthen the GATT articles to include rules and precedures governing the imposition of export controls, the denial of fair and equitable access to supplies, and effective consultation procedures. In addition, the President would be directed to seek the adoption of multilateral procedures and sanctions with respect to countries that deny equitable access to supplies of raw materials, food, and manufactured products.

To increase the President's leverage in bargaining with countries that deny supplies to the United States, he would be given explicit authority under title III to retaliate against offending nations. This authority could be used unilaterally until such time as multilateral mechanisms to respond to unreasonable export embargoes are adopted by the GATT. But the ability of the United States or any other GATT member nation to bring pressure upon commodity cartels would obviously depend upon our ability to act in concert with our trading partners under mutually agreed upon rules and procedures.

In a paper entitled "Completing the GATT," released several weeks ago by the National Planning Association, C. Fred Bergsten, of the Brookings Institution, proposed a number of specific objectives that might be incorporated in the U.S. negotiating position. I would hope that our negotiators would draw upon these recommendations and others that have been offered to make the most effective possible use of the authorities granted under the supply access amendments.

In two other respects I believe the Senate bill offers a significant improvement over that adopted by the House of Representatives. The first such area is the question of addressing dislocations which occur as industries adjust to increased competition. Although the TRA places emphasis on avoiding market disruption and providing sufficient time for U.S. industries to adjust to competition, some temporary dislocation is inevitable. To deal with these problems, the Finance Committee adopted amendments, offered by Senator NELSON, to the adjustment assistance title of the act. Under these amendments, which I was privileged to cosponsor, the benefit levels for workers were liberalized to provide a maximum of 70 percent of a worker's average weekly wage up to 100 percent of the average weekly wage in manufacturing for a full 52 weeks. Workers over age 60 or those enrolled in approved training programs could receive benefits for an additional 26 weeks. In addition, the bill establishes for the first time a program of adjustment assistance for communities, including aid in the creation of Trade Impacted Area Councils, technical assistance under the Public Works and Economic Development Act, and a special program of loan guarantees to stimulate new investment in trade impacted communities.

Second, I should like to call attention to a special problem in agriculture. The United States has for many years maintained a system of import quotas on agricultural products which are covered by domestic price support systems. These quotas are not simply a trade matter, but also an integral part of domestic price support and food policies.

Over the past 2 years administration recommendations and actions have suggested the possibility of a trade off between U.S. concessions on dairy imports in exchange for European concessions on other agricultural products. Despite repeated denials, Executive actions in maintaining price supports at or even below the minimum level required by law, in invoking emergency authority to expand dairy imports above established quota levels, and in refusing until forced by threat of a court order to countervail against heavily subsidized dairy imports suggested that key elements of the proposed policy might already be gaining adoption.

As a result of these actions, the U.S. dairy industry is facing disastrous losses. As many as 5,000 dairy farmers in Minnesota have been forced out of business since the beginning of this year. Aside from the ruinous impact of administration policies upon the dairy farmer, such policies could lead to severe shortages and sharply higher prices for consumers in the months ahead.

To guard against such a possibility, Senator NELSON and I sought in committee and were given assurances that any change in the current program of quotas under section 22 pursuant to a trade agreement—whether such a change could be implemented administratively or required an amendment to current law—would be brought back to the Congress for affirmative approval under the procedures set forth in section 102 of the act. Furthermore, Senator NELSON and I were assured in a letter from Ambassador Harald B. Malmgren, dated October 2, 1974, that—

> The Special Trade Representative's Office would not recommend any changes in quotas in connection with trade policy without prior consultation with you and with representatives of the dairy industry, whatever the elements of such a settlement insofar as they affect dairy farmers.

A parallel concern of dairy farmers and many other U.S. industries is the problem of export subsidies. If subsidized imports of articles covered by domestic price support programs are permitted to enter the United States, even when traditional quotas are strictly enforced, but especially when quotas are expanded under emergency proclamation authority, not only is the American farmer subject to unfair competition, but the U.S. Government is also placed in the position of being forced to buy domestic products that are displaced by imports in order to maintain price support levels.

The dairy industry offers a case in point. During the first quarter of 1974, the United States imported 29 million pounds of cheese from the Common Market. Most of this cheese carried a subsidy approaching 32 cents per pound. As a result of unfair competition, U.S. cheese producers lost their traditional markets, the domestic price of cheese fell below support levels, and the U.S. Government was forced to buy cheese to maintain the support level.

The present law on countervailing duties is clear and mandatory. Nevertheless, because there is no effective time limit for investigations, it has only rarely been enforced. The House bill sought to correct this problem by directing that investigations be completed within 1 year from the date that the question is presented to the Secretary. Nonetheless, a loophole still remained since years of delay could take place before the question officially reached the Secretary. In addition, the House bill opened up two new loopholes by giving the administration virtually unlimited discretion over whether to countervail against products covered by quotas and over whether to countervail against any products during the 4 years of the negotiations.

To meet these objections, the Finance Committee, therefore, adopted several amendments, which Senator NELSON and I proposed, to strike the permanent discretion over whether to countervail when quantitative restrictions are in effect, to tighten the time period for investigations, and to strictly limit administration discretion during the negotiations. These amendments would require that the Secretary countervail unless two conditions are met: First, that adequate steps have been taken to reduce substantially or eliminate the adverse effect of the subsidy, and second, that there is a reasonable prospect that successful trade agreements will be reached to reduce and eliminate barriers to trade and to countervail would seriously jeopardize the satisfactory completion of the negotiations. Any decision not to countervail would be subject to veto by either House of Congress, resulting in the mandatory imposition of countervailing duties.

At the request of Senator NELSON and me, the Department of the Treasury provided an explanation of how these amendments would be applied in the case of the dairy industry. We were informed that Treasury would proceed immediately under the countervailing duty law should the EC reinstate export payments on dairy products and that any attempt to avoid or delay the imposition of countervailing duties by the mere subterfuge of substituting one incentive program for another would be treated as though these payments had been resumed. In this event a final determination on the payment of subsidies could be made within 14 days.

While these and other amendments have greatly strengthened the trade bill, there are however several weaknesses in the Senate version which I hope can be corrected in conference with the House.

I am concerned, for example, that the Senate bill requires that the President provide import relief in the form of higher tariffs, quotas or orderly marketing agreements when there is a finding of injury to U.S. firms whether or not the overall national interest of our country would be jeopardized by such action. I would hope that some discretion might be provided by the conferees.

Second, the Senate committee adopted an amendment to the countervailing duty section of the act, which would preclude any discretion whatsoever after the first 2 years of the negotiations. I would hope that this limited discretion would be extended to 4 years, provided all other major aspects of the Senate bill concerning countervailing duties and section 22 import quotas are retained in conference.

Third, I am most concerned about an amendment that was included in title IV of the trade bill concerning most favored national status for Czechoslovakia. This provision would seek to force Czechoslovakia to pay all property claims resulting from postwar nationalization of property at an unprecedented rate of 100 cents on the dollar before the CSSR would be eligible for most-favored-nation status or for the return of Czech gold confiscated by the Nazi regime during World War II. The United States has not demanded 100 percent restitution from any other Communist government; we have, in fact, signed similar claims settlements with Poland at 39 cents on the dollar and with Romania for 37 cents on the dollar. Nor have Britain or France demanded 100 percent payment from Czechoslovakia. The Czech Government has negotiated an agreement with the Department of State which would provide for a payment level of 41 percent, which compares favorably with other agreements we have negotiated and is more favorable than those signed by our allies. Advocates of the amendment have argued that it will force the Prague Government to negotiate a better agreement. Nevertheless, unless the amendment is dropped or greatly modified in conference a more likely result would be the loss of trade opportunities totaling from $300 million to $1.5 billion in the next few years.

Finally, the Finance Committee adopted several, in my opinion, regretable amendments to title V of the Trade Reform Act. Title V establishes a generalized system of preferences for developing countries. While the amount of trade expected to take place under title V is terribly modest, this program is symbolic of U.S. willingness to assist in promoting economic development and diversification in developing nations. Unfortunately, the committee decided to attach amendments which would deny preferences to many countries in Latin America and Africa.

These amendments would also preclude any Communist country from receiving preferences. This trade bill marks a step forward in our relations with the nonmarket economies. But it has the unfortunate aspect of denying generalized system of preferences for Romania and Yugoslavia, along with other Communist countries. At one point in the history of this bill, there was an exception for Romania and Yugoslavia recognizing their more independent foreign policy and, in the case of Yugoslavia, the more humane domestic structure as well. That exception is now missing from this bill.

I regard this as a serious error on our part. The Soviet Union has, for more than a generation, been seeking to enforce discipline and control over these two countries along with the rest of Eastern Europe. And we are only playing into their hands by forcing them all into the same category. I have, therefore, prepared an amendment to provide that Romania and Yugoslavia be exempted from the prohibition on GSP, which I hope to raise later on during the debate on the bill. I do not intend to take much of the Senate's time on this amendment.

The Senate trade bill is not a perfect bill. In a number of areas in addition to those I have mentioned, I believe that this measure could be improved. Nevertheless, I recognize the greater urgency of getting this measure through the Senate and into conference before the clock runs out. With only a few days remaining there is no time for delay.

The cloture motion would preclude lengthy debate on a number of amendments which have been offered relating to deregulation of natural gas and the taxation of foreign earnings of U.S. corporations. The proposal for natural gas deregulation is, in my opinion, a disastrous amendment that could take $10 billion a year from the pockets of consumers to line the pockets of the big oil companies. On the other hand, I have a great deal of sympathy with the intent of amendments to close tax loopholes that enable U.S. businesses to escape without paying their fair share of taxes and in some cases may encourage U.S. industries to relocate overseas. However, I do have serious questions about whether the amendments are technically sound and adequate to achieve the purposes for which they were introduced. And beyond these doubts, I recognize, as sponsors of the natural gas amendment must recognize, that the amendments will never survive the determined opposition they will meet in the waning days of the 93d Congress. They will only succeed in killing the trade bill.

I, for one, believe that we cannot afford to let the trade bill die. The international economic outlook is simply too grave and the need for reform of our trading system too urgent to allow shortsighted arguments or narrow self-interest to kill this essential legislation. The decision we make on the trade bill is more than a domestic economic decision although it is clear that our economy would benefit from its passage. It may prove to be the most important foreign policy decision of the 93d Congress.

Cordell Hull, the father of our trade agreements program, once warned:

> If goods cannot cross borders, armies will.

While this prophecy may sound alarmist, in my judgment there can be no doubt that the political consequences of allowing our trading system to deteriorate would be harmful in the extreme to our hopes for renewed cooperation with Europe, with Japan, and with the developing world. And unquestionably, the failure to strengthen our trade relationship with the Soviet Union and other Communist countries, as envisioned in the Trade Reform Act, would both undermine progress in détente to date and threaten the prospects for the future.

Negotiation offers no instant answers to the oil crisis and to the problems of inflation and unemployment. But negotiation does offer the hope that through slow and painstaking effort, detached from the political arena, our country and other trading nations can achieve mutually acceptable solutions to the relatively minor economic problems that divide us and can build the basis for cooperation to resolve the bigger issues upon which our common fate depends.

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Senate

Mr. MONDALE. Mr. President, I should like to ask the floor manager several questions relating to the countervailing duty section of the bill, and to any agreements which might be entered into regarding import quotas under section 22 of the Agricultural Adjustment Act.

The committee report states:

> The Committee also understands that existing administrative authority will not be used to implement any agreement resulting from trade negotiations entered into under this Act which affects the application of Section 22 of the Agricultural Act of 1933, as amended. It is further understood that any trade agreement which would alter or amend section 22 of the Agricultural Adjustment Act, or affect the application thereof, would have to be submitted to the Congress as would any other agreement under Section 102, and be approved by both Houses of Congress under the positive approval procedure before it could become effective as U.S. law or administrative practice.

I would just like to be absolutely clear on this point: that under the provisions of section 102 as adopted by the Finance Committee and defined by both the committee and the administration, any agreement which would affect agricultural import quotas would have to be submitted to the Congress for affirmative approval, whether or not the administration already has the authority to alter such quotas.

Mr. LONG. The Senator from Minnesota is correct on this point. The administration provided assurances to the committee that under section 102 any agreement affecting section 22 import quotas would be submitted to the Congress for affirmative approval. Furthermore, any agreement affecting any nontariff barriers negotiated under section 102 must be submitted to the Congress for approval by both Houses.

Mr. MONDALE. On another point, the Senator from Louisiana is familiar with the provisions of section 331 of the bill dealing with countervailing duties. In its consideration of this section the Finance Committee attempted to carefully circumscribe the very broad grant of discretion contained in the bill approved by the House of Representatives. The Senate did, however, approve a strictly limited form of discretion to be exercised during the first 2 years of the negotiation. The committee set forth two conditions which must be met—first, that adequate steps had been taken to reduce substantially or eliminate the adverse effect of the bounty or grant; and second, that there was a reasonable prospect that successful trade agreements would be entered into, under section 102, providing for the reduction or elimination of subsidies and other distortions of international trade, and that the imposition of duties would be likely to seriously jeopardize the satisfactory completion of the negotiations.

I believe that the committee intends that these provisions be interpreted literally, and that a minor reduction in the subsidies paid by an offending country would not meet the requirements of the act. Furthermore, even if the subsidy had been largely but not totally eliminated, the Finance Committee would have an opportunity to receive the arguments of the affected U.S. industry, and if that industry could present evidence to show that it was still being injured, could recommend that the Senate by majority vote force the imposition of countervailing duties. Am I correct in this understanding.

Mr. LONG. The Senator from Minnesota is absolutely correct in his interpretation. Either the Senate or the House of Representatives could overrule by a simple majority a decision by the Secretary of the Treasury not to countervail. It was not the committee's intention to hand the Secretary of the Treasury a blank check to countervail or not at will.

Now, there are several amendments pending which would further amend this section. I may want to vote for them. But I want to listen to the arguments on both sides. Maybe they have some merit.

Mr. MONDALE. I thank the Senator from Louisiana.