

CALLING ON THE GOVERNMENT OF GERMANY TO TAKE IMMEDIATE ACTION TO COMBAT SEX TRAFFICKING IN CONNECTION WITH THE 2006 FIFA WORLD CUP; ASSISTANCE FOR SMALL AND MEDIUM ENTERPRISES IN SUB-SAHARAN AFRICAN COUNTRIES ACT OF 2005; GLOBAL ONLINE FREEDOM ACT OF 2006; CENTRAL ASIA DEMOCRACY AND HUMAN RIGHTS PROMOTION ACT OF 2006

MARKUP

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

OF THE

COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

H. Res. 860, H.R. 4319, H.R. 4780 and H.R. 5382

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JUNE 22, 2006
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CALLING ON THE GOVERNMENT OF GERMANY TO TAKE IMMEDIATE ACTION TO COMBAT SEX TRAFFICKING IN CONNECTION WITH THE 2006 FIFA WORLD CUP; ASSISTANCE FOR SMALL AND MEDIUM ENTERPRISES IN SUB-SAHARAN AFRICAN COUNTRIES ACT OF 2005; GLOBAL ONLINE FREEDOM ACT OF 2006; CENTRAL ASIA DEMOCRACY AND HUMAN RIGHTS PROMOTION ACT OF 2006

THURSDAY, JUNE 22, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS
AND INTERNATIONAL OPERATIONS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:12 p.m. in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (Chairman of the Subcommittee) presiding.

Mr. SMITH OF NEW JERSEY. Pursuant to notice, I call up the resolution H. Res. 860, calling on the Government of Germany to take immediate action to combat sex trafficking in connection with the 2006 FIFA World Cup for purposes of markup, and move its recommendation to the Full Committee.

[H. Res. 860 follows:]

109TH CONGRESS
2D SESSION

H. RES. 860

Calling on the Government of Germany to take immediate action to combat sex trafficking in connection with the 2006 FIFA World Cup, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2006

Mr. SMITH of New Jersey submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Calling on the Government of Germany to take immediate action to combat sex trafficking in connection with the 2006 FIFA World Cup, and for other purposes.

Whereas trafficking in human beings, for sexual or labor exploitation, is an egregious violation of human rights;

Whereas Congress passed and the President signed into law the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386), the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193), and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–186) in order to promote vigorous efforts worldwide to combat all forms of trafficking in human beings;

Whereas major sporting events, conventions, and other such events that attract large numbers of people have been shown to result in an increase in the demand for commercial sexual services;

Whereas “pimps” and traffickers are aware of this demand and respond to it by trafficking women and girls for prostitution at such events;

Whereas trafficked women are often persuaded to cross international borders by false promises of legitimate employment in other countries, before being forced to engage in prostitution;

Whereas Germany is a major destination country for trafficking of women and children for prostitution, and there are an estimated 400,000 women in prostitution in Germany, 75 percent of whom are foreigners;

Whereas the 2006 FIFA World Cup will be played in 12 German cities and millions of fans will be in attendance;

Whereas individuals and organized crime groups that traffic women and girls for prostitution are expected to increase their activity before and during the 2006 World Cup;

Whereas in December 2001, Germany legalized “pimping”, prostitution, and maintaining a brothel, and officially stated that prostitution is no longer to be seen as immoral;

Whereas Germany’s legalized prostitution industry has been preparing to increase its capacity in anticipation of the 2006 World Cup;

Whereas prostitution and related activities—including pimping and patronizing or maintaining brothels—provide a façade behind which sex traffickers can operate;

Whereas in March 2006 the European Parliament adopted a resolution on “forced prostitution in the context of world sports events”, stating that major sporting events at which large numbers of people congregate results in a “temporary and spectacular increase in the demand for sexual services” and then listing a number of actions that should be undertaken by Germany and others;

Whereas in April 2006, the European Union Justice and Home Affairs Council adopted a list of best practices that should be undertaken by member states holding major international events, including the development and implementation of measures that discourage the demand for trafficking victims;

Whereas Germany has signed the United Nations Convention against Transnational Organized Crime and the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children;

Whereas in February 2006 the United Nations Special Rapporteur on trafficking in persons, especially women and children reported to the United Nations Commission on Human Rights: “For the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking. . . . Thus, State parties [to the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children] with legalized prostitution industries have a heavy responsibility to ensure that the conditions which actually pertain to the practice of prostitution within their borders are free from the illicit means delineated in subparagraph (a) of the [UN Protocol] definition, so as to ensure that their legalized prostitution regimes are not simply perpetuating widespread and systematic trafficking. As

current conditions throughout the world attest, States parties that maintain legalized prostitution are far from satisfying this obligation.”; and

Whereas article 9, paragraph 5, of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children states: “States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) calls on the Government of Germany to take
3 immediate action to combat sex trafficking in con-
4 nection with the 2006 FIFA World Cup;

5 (2) calls on Germany to take measures to dis-
6 courage the demand that fosters all forms of exploi-
7 tation of persons, especially women and children,
8 that leads to trafficking, including by raising aware-
9 ness among potential users of prostitution and by re-
10 considering the effect of legalized prostitution in cre-
11 ating the demand for prostitution and trafficking;

12 (3) urges countries throughout Europe, includ-
13 ing Germany, to support vigorously public awareness
14 campaigns to inform and educate the general public,
15 particularly athletes, sports fans, and financial spon-
16 sors of the 2006 World Cup, about the potential for

1 trafficking in human beings in response to the rising
2 demand;

3 (4) encourages governments, international orga-
4 nizations, and nongovernmental organizations to en-
5 gage in campaigns targeting potential victims and
6 informing them of the risks and dangers of becom-
7 ing caught in human trafficking networks, particu-
8 larly at the time of the 2006 World Cup;

9 (5) commends the “Final Whistle—Stop Forced
10 Prostitution Campaign” launched by the National
11 Council of German Women’s Organizations and calls
12 on sports associations, including the Fédération
13 Internationale de Football Association (FIFA), the
14 Union of European Football Associations (UEFA),
15 the German Football Association, and others to sup-
16 port this campaign and roundly condemn trafficking
17 in human beings and forced prostitution;

18 (6) encourages sponsors of the 2006 World
19 Cup, as well as tour operators and air transportation
20 service providers, to join in the efforts to end the
21 sexual exploitation of women and girls and prevent
22 trafficking in human beings;

23 (7) urges athletes and coaches of teams com-
24 peting in the 2006 World Cup to denounce the sex-

7

6

1 ual exploitation of women and girls and to encourage
2 prevention of trafficking in human beings; and

3 (8) urges Germany and all countries to ratify or
4 accede to, and to implement, the United Nations
5 Convention Against Transnational Organized Crime
6 and the United Nations Protocol to Prevent, Sup-
7 press, and Punish Trafficking in Persons, Especially
8 Women and Children.

○

Mr. SMITH OF NEW JERSEY. Without objection, the resolution will be considered as read and open for amendment at any point.

And I would advise my colleagues, I do have an amendment which I would ask the Clerk to report.

Ms. PLUMLEY. Amendment to House Resolution 860 offered by Mr. Smith of New Jersey.

[The information referred to follows:]

AMENDMENT TO H. RES. 860**OFFERED BY MR. SMITH OF NEW JERSEY**

In the 9th clause of the preamble, strike “legalized” and all that follows and insert “officially declared that prostitution is no longer to be seen as immoral and amended its legal code to legalize the maintaining of a brothel, to permit ‘pimping’, except when it involves exploiting a prostitute by impairing her personal or economic independence, and to elevate prostitution to the status of a legitimate profession;”.

In the 14th clause of the preamble, insert after “has signed” the following: “and on June 14, 2006, ratified”.

Page 6, strike line 3 and all that follows through line 8 and insert the following:

1 (8) welcomes ratification by Germany of the
2 United Nations Convention against Transnational
3 Organized Crime and the United Nations Protocol to
4 Prevent, Suppress, and Punish Trafficking in Per-
5 sons, Especially Women and Children, and urges
6 Germany to fully implement such Convention and
7 Protocol as soon as practicable, including by adopt-
8 ing any implementing legislation necessary to do so.

AMENDMENT TO H. RES. 860
OFFERED BY MR. SMITH OF NEW JERSEY

In the 14th clause of the preamble, insert after “has signed” the following: “and on June 14, 2006, ratified”.

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5 sons, Especially Women and Children, and urges
6 Germany to fully implement such Convention and
7 Protocol as soon as practicable, including by adopt-
8 ing any implementing legislation necessary to do so.

Mr. SMITH OF NEW JERSEY. Without objection, the amendment will be considered as read. And I would like to recognize myself to make a few opening comments and yield to my colleagues for any comments they might have either on the amendment or on the resolution itself.

I would ask unanimous consent that my full statement be a part of the record. Without objection, so ordered.

One of the tragedies of modern day slavery is that so much of the demand for trafficking comes from countries that espouse commitment to human rights. As the world watches the 2006 FIFA World Cup, a showcase of world-class athleticism and teamwork, Germany, despite its professed commitment to fight the abuse and exploitation of women and girls through trafficking, by certain policies it is facilitating and even encouraging, it aids the very crime it professes to abhor.

In December 2001, the German Government legalized prostitution, which is not only inherently harmful and dehumanizing, but also fuels trafficking because it provides a facade behind which traffickers for sexual exploitation operate. The essential legalization of prostitution also places a greater burden on law enforcement as officials try to distinguish "legal pimps" from human traffickers.

In Germany, there are about 400,000 women in prostitution, 75 percent of whom are foreigners. A 2001 report by the Germany Federal Criminal Investigation Office reported that of the 414 women and girls in prostitution that were surveyed, 45 percent were forced into prostitution through violence, torture, rape or intimidation.

Further research conducted by Melissa Farley at Prostitution Research and Education found that 71 percent of women surveyed were physically assaulted while engaged in prostitution and a staggering 89 percent wanted to escape prostitution. Rather than preventing the abuse of women, any kind of legalization of prostitution appears to condone an act that almost half of the time will result in the physical abuse of women.

Regrettably, according to the 2003 U.N. report, Germany is the top destination country for trafficking in women and children for prostitution, with most victims trafficked from the former Soviet republics and Central and Eastern Europe. The German Government should be outraged by this and immediately take a look at their policies which makes Germany such an inviting country for traffickers.

Let me just say, finally, a couple of points. This legislation has 30 cosponsors. It calls on fans, players, and all citizens to boycott the brothels and calls on the Government of Germany to take immediate action to halt state sponsorship of commercial sexual exploitation that leads to sex trafficking of women in connection with the World Cup games.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

H. RES. 860

One of the tragedies of modern day slavery is that so much of the demand for trafficking comes from countries that espouse commitment to human rights. As the world watches the 2006 FIFA World Cup, a showcase of world-class athleticism and teamwork, Germany, despite its professed commitment to fight the abuse and exploitation of women and girls through trafficking, by certain policies is facilitating or encouraging the very crime it professes to abhor.

In December 2001 the German government legalized prostitution, which is not only inherently harmful and dehumanizing, but it also fuels trafficking because it provides a façade behind which traffickers for sexual exploitation operate. Legalization of prostitution also places a greater burden on law enforcement as officials try to distinguish legal pimps from human traffickers.

According to the U.S. State Department, where prostitution is legalized or tolerated, there is a greater demand for human trafficking victims and nearly always an increase in the number of women and children trafficked into commercial sexual slavery. Major sporting events and conventions attract large numbers of people and also have been proven to result in an increase in the demand for commercial sexual services. Pimps and traffickers jump to respond to the demand by trafficking women and girls for prostitution to events, such as the World Cup.

In Germany there are more than 400,000 women in prostitution, 75% of whom are foreigners. A 2001 report by the German Federal Criminal Investigation Office reported that of the 414 women and girls in prostitution that were surveyed, 45% were forced into prostitution through violence, torture, rape, or intimidation.

Further research conducted by Melissa Farley at Prostitution Research and Education found that 71% of women surveyed were physically assaulted while engaged in prostitution and a staggering 89% wanted to escape prostitution. Rather than preventing the abuse of women, the legalization of prostitution appears to condone an act that almost half the time will result in the physical abuse of a woman.

Regrettably, according to a 2003 UN report, Germany is the top destination country for trafficking in women and children for prostitution, with most victims trafficked from the former Soviet republics and Central and Eastern Europe. The German government should be outraged by this and immediately begin to look at their policies which make Germany such an inviting country for traffickers.

In 1993, there were 517 cases of illegal sex slave trade; in 2003, the number of identified victims was 1,235. Although specific statistics aren't available, a recent UN report estimates the number of forced laborers in Germany to be anywhere from 2,000—20,000. Most of these are women from Eastern Europe who were forced into prostitution.

The link between legalization of prostitution and trafficking was recognized in the U.S. State Department's 1999 Country Report on Human Rights Practices, released by the Bureau of Democracy, Human Rights and Labor. In the country report on Australia, it was noted that in the State of Victoria which legalized prostitution in the 1980s, "Trafficking in East Asian women for the sex trade is a growing problem" in Australia. ". . . lax laws—including legalized prostitution in parts of the country—make [anti-trafficking] enforcement difficult at the working level." In order for the German government to successfully combat trafficking in persons it must reverse the legalization of prostitution.

The European Union has also expressed concern that the legalization of prostitution in Germany provides an atmosphere for World Cup fans to legally rape women in brothels or in mobile unites designed for quick and discrete entrances and exists for the rapists. Europeans and Americans are not the only ones watching in horror as Germany potentially plays host to human traffickers. Vivi Akakpo, the West African coordinator for the All Africa Conference of Churches said, "It is now public knowledge that organized syndicates have plans to bring in young women, particularly from Eastern Europe and from other poor countries, to Germany in time for the World Soccer Cup 2006."

While I welcome the recent ratification by the German government of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, as my amendment states, such actions are only a necessary first step in combating trafficking in persons in Germany. This resolution encourages the German government to implement the protocol as soon as possible.

This legislation, which has 30 cosponsors, also calls for fans, players, and all citizens to boycott the Brothels and calls on the government of Germany to take imme-

mediate action to halt state sponsorship of commercial sexual exploitation that leads to sex trafficking of women in connection with the World Cup games.

The many athletes and coaches of teams that will play in the World Cup can be a voice for the voiceless and should denounce Germany's complicity in sex trafficking. Sponsors of the World Cup should also join in the efforts to end the sexual exploitation of women and girls and prevent trafficking in human beings.

All those who support the dignity of women should demand strong and immediate actions by the German government to reverse its facilitation of sex trafficking. I ask my colleagues to give favorable consideration to H. Res. 860, which is a very timely and necessary statement to our colleagues in Germany that it is their responsibility to fully comply with the spirit of anti-trafficking efforts and reverse its pro-commercial sex laws.

Mr. SMITH OF NEW JERSEY. Let me also point out to my colleagues, as they all know, we held a series of hearings, the first hearing devoted exclusively to the situation in Germany, followed by a general trafficking hearing at which we heard from two Russian women who had been trafficked into Germany previously who told us exactly the kind of degradation they suffered.

This resolution puts us, we believe, on the side of saying we ought to be all about protecting women from this kind of degrading treatment, whether it be a seemingly legal establishment or that thin line of demarcation that separates truly trafficked women.

The amendment I am offering does recognize some of the efforts of the German Government. Well, they just recently, within days, ratified the United Nations Convention Against Transnational Organized Crime and the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially women and children. And then we urge the Government of Germany to fully implement that.

So in the midst of all of this they have done something that at least looks good. The key will be in its implementation.

We also, in this amendment, since the German Government expressed some concern that we used the word "legalized," we strike the word "legalized" and put in what they claim is what has happened, and that is—and the language reads as such:

"Officially declared that prostitution is no longer to be seen as immoral and amended its legal code to legalize the maintaining of a brothel to permit 'pimping,' except when it involves exploiting a prostitute by impairing her personal or economic independence, and to elevate prostitution to the status of a legitimate profession."

Obviously, I don't agree that that is a good thing, but they wanted a clarification as to "legalization" versus what it is that they have done.

I would now turn to my friend and colleague, Mr. Payne, for any opening comments he might have.

Mr. PAYNE. Thank you very much.

Let me commend you for being vigilant on this whole question of trafficking and protecting victims, and as it particularly pertains to the World Cup that is actually being held today.

Actually, the World Cup is the largest sporting event in the world, and I do believe that countries should not allow sexual exploitation to be a large part of this sporting event, which is healthy, which is competitive, which is team-building in national pride.

And so I certainly support this legislation and urge its adoption.

Mr. SMITH OF NEW JERSEY. Are there any other Members who would like to be heard?

Ms. WATSON. Yes.

Mr. SMITH OF NEW JERSEY. Ambassador Watson.

Ms. WATSON. Thank you so much, Mr. Chairman, for bringing this issue and this resolution to us again.

This is specific to a specific activity that is taking place now, but before this probably completes the process, the games will be over. However, is there a possibility to put into this message—because it sends a message—that we would like to see the governments look at this whole industry and possibly set up a program.

Let me just tell you where I am coming from. When we were getting ready to have the Olympics in Los Angeles in 1986, I put in a piece of legislation that would require rape counseling centers in every police precinct. I got a call from my mayor saying that in one of the Russian newspapers, *Izvestia*, they said that the rape rate is so high that one of the local representatives is asking for a counseling center. So it struck a note that far away.

And so referring to the pimping and the prostitution industry, I am wondering if we could strike a note with them to say that we would like Germany, in particular, to review its policies and so on.

Now I don't know if it is there; I haven't read it all the way through. I just raise that issue because I think that this whole industry needs to be reviewed in these countries if they are going to host a world game.

Mr. SMITH OF NEW JERSEY. Will the gentlewoman yield?

Ms. WATSON. Yes, I do yield.

Mr. SMITH OF NEW JERSEY. We do have in the resolved clause an emphasis on demand, trying to reduce demand. We also talk about one of the groups, the Final Whistle-Stop Forced Prostitution Campaign, and the work they are doing to try to mitigate this abuse.

But certainly any additional language that you think might be helpful as we go to Full Committee; or if you have it ready now, we would certainly—if it strengthens the resolution, let's do it, because we do want to send a very consistent message on prevention—protection for the women and prosecution of those who exploit.

Ms. WATSON. If I can respond, let me just say that I would like to take this and when it comes to the Floor, I would like to offer an amendment to the last section, subsection 8, lines 3 to 4, because we are in this resolution urging "Germany and all countries to ratify or accede to," and it goes on. So I would like to, within this language, to have some specificity. You know, we ought to stand for discouraging this kind of thing.

So I would like to add some language, and I will bring it up at that time. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Would any other Members like to be heard?

If not, the question occurs on the amendment.

All those in favor, signify by saying aye.

Opposed, no.

In the opinion of the Chair, the ayes have it and the agreement is agreed to.

The question now occurs on the motion to report the resolution H. Res. 860, as amended.

All those in favor, signify by saying aye.

Opposed, no.

The ayes have it and the amendment is agreed to. The staff is directed to make any technical and conforming amendments.

Without objection, the resolution will be reported favorably to the Full Committee in the form of a single amendment in the nature of a substitute, incorporating the amendment adopted here today. Without objection, the staff is directed to make any technical and conforming amendments.

Pursuant to notice, I now call up the bill H.R. 4319, the Assistance for Small and Medium Enterprises in sub-Saharan African Countries Act of 2005 for purposes of markup and move its consideration recommendation to the Full Committee.

[H.R. 4319 follows:]

109TH CONGRESS
1ST SESSION

H. R. 4319

To provide assistance for small and medium enterprises in sub-Saharan African countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2005

Mr. LANTOS (for himself and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide assistance for small and medium enterprises in sub-Saharan African countries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Assistance for Small and Medium Enterprises in Sub-
6 Saharan African Countries Act of 2005”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Sense of Congress; declaration of policy.
Sec. 4. Activities of the Overseas Private Investment Corporation to strengthen financial institutions in sub-Saharan African countries.
Sec. 5. Assistance for small and medium enterprises in sub-Saharan African countries.
Sec. 6. Actions to improve trade between sub-Saharan African countries and the United States.
Sec. 7. Definitions.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) According to the Organization for Economic
4 Co-operation and Development (OECD), the econo-
5 mies of sub-Saharan African countries have reg-
6 istered their highest overall growth in eight years—
7 more than five percent in 2004—due to rising global
8 commodity prices, the expansion of production in oil-
9 producing sub-Saharan African countries, and pru-
10 dent macro-economic policies.

11 (2) While economic liberalization has reduced
12 the involvement of governments of sub-Saharan Afri-
13 can countries in the economic sector, it has not re-
14 sulted in improved credit delivery to finance domes-
15 tic businesses, particularly small and medium enter-
16 prises in sub-Saharan African countries, in the pri-
17 vate sector.

18 (3) Despite the privatization of over 2,273 busi-
19 nesses in sub-Saharan African countries and \$9.1
20 billion raised, private sector investment still lags be-

1 hind Asia, in large part due to inadequate infra-
2 structure, including electricity, water, roads, and
3 commerce facilities, and a risk-averse retail banking
4 sector.

5 (4) Sub-Saharan Africa countries hold billions
6 of uninvested capital in central banks and financial
7 holding institutions. In the eight-nation West Afri-
8 can Economic and Monetary Union the amount of
9 excess capital in the central bank recently peaked at
10 almost \$2 billion.

11 (5) Excess reserves of uninvested capital in sub-
12 Saharan African countries have often been illicitly
13 diverted or invested in economically inefficient enter-
14 prises and other purposes, often for the benefit of
15 politically-connected persons or entities.

16 (6) Nigerian President Olusegun Obasanjo re-
17 cently estimated that corrupt leaders of sub-Saharan
18 African countries have stolen at least \$140 billion
19 from their citizens in the four decades since inde-
20 pendence. This theft contributes to the fact that the
21 people of sub-Saharan African countries owe
22 unsustainably large public and foreign debts, face
23 high rates of extreme poverty, and have enjoyed lit-
24 tle basic economic development.

1 (7) Increasingly, governments of sub-Saharan
2 African countries are making concerted efforts to in-
3 vestigate such activities, prosecute corrupt officials,
4 and recover public funds through the creation of
5 agencies such as the Economic and Financial Crimes
6 Commission in Nigeria, the Serious Fraud Office in
7 Ghana, the Federal Ethics and Anticorruption Com-
8 mission in Ethiopia, and the Anticorruption Com-
9 mission in Zambia.

10 (8) These efforts will require technical assist-
11 ance and law enforcement cooperation from the
12 international community, including the United
13 States.

14 (9) A major challenge for sub-Saharan African
15 countries is to productively invest their own capital
16 to expand domestic business ownership and create
17 employment, particularly for youth, in order to pro-
18 mote broad and sustainable economic growth.

19 (10) While the microenterprise movement has
20 shown itself to be an important generator of self-em-
21 ployment, research and experience throughout sub-
22 Saharan Africa also have proven that small and me-
23 dium enterprises are the greatest catalyst for job
24 creation, skills transfer, and wealth creation in sub-
25 Saharan Africa.

1 (11) Although small and medium enterprises in
2 sub-Saharan African countries make up the largest
3 portion of the formal economy in sub-Saharan Afri-
4 can countries, the average annual contribution of in-
5 vestments of such small and medium enterprises to
6 growth in the gross domestic product of sub-Saha-
7 ran African countries by proportion declined from an
8 average of 14 percent in the 1970s, to 13 percent
9 in the 1980s, and to 12 percent in the first half of
10 the 1990s, while during the same period, the propor-
11 tion of gross domestic product investment by small
12 and medium enterprises in other developing regions
13 increased.

14 (12) Investments in small and medium enter-
15 prises in sub-Saharan African countries also have
16 declined, in part because an estimated 37 percent of
17 personal wealth in sub-Saharan African countries is
18 held in assets and cash located outside of sub-Saha-
19 ran African countries, even though the global region
20 with the highest return on capital investment is sub-
21 Saharan Africa.

22 (13) Many retail banks avoid lending to small
23 and medium enterprises in sub-Saharan African
24 countries or engage in predatory lending practices,
25 considering such small and medium enterprises as

1 presenting a high credit default risk and as costly to
2 administer, and instead concentrate on providing
3 credit to larger local or international firms or on
4 holding high-yield government bonds.

5 (14) This approach harms the prospects for
6 sustainable private sector development by ignoring
7 the necessity of a bottom-up capital formation—a
8 key factor in creating jobs which is necessary to re-
9 duce poverty and income inequalities.

10 (15) Governments of sub-Saharan African
11 countries must develop the fiscal policies, economic
12 institutions, legal frameworks, labor market protec-
13 tions, commercial infrastructures, and lending prac-
14 tices to create and manage competitive business en-
15 vironments for investors in small and medium enter-
16 prises in sub-Saharan African countries. Further,
17 small and medium enterprises in sub-Saharan Afri-
18 can countries must acquire the business skills, ex-
19 pertise, and capital financing necessary to manage
20 successful businesses.

21 **SEC. 3. SENSE OF CONGRESS; DECLARATION OF POLICY.**

22 (a) SENSE OF CONGRESS.— It is the sense of Con-
23 gress that in an increasingly competitive global environ-
24 ment driven by transformations in technology, commu-
25 nications, transportation, finance, production, labor mar-

1 kets, and markets for goods and services, sub-Saharan Af-
2 rican countries should develop the private sector, particu-
3 larly small and medium enterprises, and human capital,
4 goods and services, banking and finance systems, and cre-
5 ate markets to be full participants in the global economy.

6 (b) DECLARATION OF POLICY.—It shall be the policy
7 of the Government of the United States to make available
8 for private sector development in sub-Saharan African
9 countries professional, technical, and other resources for
10 capacity-building for finance ministries, central and retail
11 banks, and small and medium enterprises to promote en-
12 trepreneurship, expand the formal sector, and increase
13 trade under the African Growth and Opportunity Act (19
14 U.S.C. 3701 et seq.) of exports from Africa to the United
15 States.

16 **SEC. 4. ACTIVITIES OF THE OVERSEAS PRIVATE INVEST-**
17 **MENT CORPORATION TO STRENGTHEN FI-**
18 **NANCIAL INSTITUTIONS IN SUB-SAHARAN AF-**
19 **RICAN COUNTRIES.**

20 Section 240 of the Foreign Assistance Act of 1961
21 (22 U.S.C. 2200) is amended by adding at the end the
22 following:

23 “(c) SUPPORT FOR FINANCIAL INSTITUTIONS IN
24 SUB-SAHARAN AFRICAN COUNTRIES.—

1 “(1) SUPPORT.—The Corporation is com-
2 mended for its activities in support of the develop-
3 ment of small and medium enterprises, and is en-
4 couraged to exercise its authorities to promote
5 United States investments in financial institutions
6 that are duly incorporated in sub-Saharan African
7 countries, to the extent that the purpose of such in-
8 vestments is to expand investment and lending op-
9 portunities to small and medium enterprises in sub-
10 Saharan African countries that are engaged in do-
11 mestic commerce in areas that are responsible for
12 significant job creation.

13 “(2) CONSIDERATION.—In making a determina-
14 tion to provide insurance and financing to financial
15 institutions referred to in paragraph (1), the Cor-
16 poration should take into consideration the extent to
17 which a project establishes and implements a non-
18 discrimination in lending policy to prohibit discrimi-
19 nation based on ethnicity, sex, color, race, religion,
20 physical disability, marital status, or age, and a pol-
21 icy against predatory lending practices.

22 “(3) TECHNICAL ASSISTANCE.—In supporting a
23 project referred to in paragraph (1), the Corporation
24 may provide technical assistance to—

1 “(A) improve the quality of management of
2 financial institutions referred to in paragraph
3 (1) to ensure the safety and stability of such in-
4 stitutions;

5 “(B) create in such financial institutions
6 effective credit risk management systems to im-
7 prove the quality of the assets of such institu-
8 tions and the ability of such institutions to re-
9 search and assess the overall credit risk of crit-
10 ical industries in the domestic economy;

11 “(C) support effective credit risk manage-
12 ment by developing internal credit rating sys-
13 tems and credit assessment tools that improve
14 the ability of such financial institutions to
15 evaluate individual credit worthiness and meas-
16 ure the overall amount of risk posed by the
17 total number of borrowers; and

18 “(D) establish comprehensive collateral
19 management programs to control borrower as-
20 sets against default and exposure as part of the
21 risk management process.

22 “(4) DEFINITIONS.—In this subsection:

23 “(A) SMALL AND MEDIUM ENTERPRISES
24 IN SUB-SAHARAN AFRICAN COUNTRIES.—The
25 term ‘small and medium enterprises in sub-Sa-

1 haran African countries' has the meaning given
2 the term in section 496A(e)(2) of this Act.

3 “(B) SUB-SAHARAN AFRICAN COUN-
4 TRIES.—The term ‘sub-Saharan African coun-
5 tries’ means the countries specified in section
6 107 of the African Growth and Opportunity Act
7 (19 U.S.C. 3706).”.

8 **SEC. 5. ASSISTANCE FOR SMALL AND MEDIUM ENTER-**
9 **PRISES IN SUB-SAHARAN AFRICAN COUN-**
10 **TRIES.**

11 (a) IN GENERAL.—Chapter 10 of part I of the For-
12 eign Assistance Act of 1961 (22 U.S.C. 2293 et seq.) is
13 amended by inserting after section 496 the following new
14 section:

15 **“SEC. 496A. ASSISTANCE FOR SMALL AND MEDIUM ENTER-**
16 **PRISES IN SUB-SAHARAN AFRICAN COUN-**
17 **TRIES.**

18 “(a) AUTHORIZATION.—The President, acting
19 through the Administrator of the United States Agency
20 for International Development, is authorized to provide as-
21 sistance, on such terms and conditions as the President
22 may determine, for small and medium enterprises in sub-
23 Saharan African countries.

1 “(b) ACTIVITIES SUPPORTED.—Assistance provided
2 under subsection (a) shall, to the maximum extent prac-
3 ticable, be used to carry out the following activities:

4 “(1) EFFECTIVENESS OF FINANCIAL SEC-
5 TORS.—Activities to improve the effectiveness of the
6 financial sectors of sub-Saharan African countries to
7 promote increased business and employment oppor-
8 tunities for small and medium enterprises in sub-Sa-
9 haran African countries. Such activities may include
10 providing technical assistance relating to—

11 “(A) tax policy and administration;

12 “(B) government debt issuance and man-
13 agement;

14 “(C) policies and regulation of financial in-
15 stitutions;

16 “(D) prevention, detection, and prosecution
17 of financial crimes;

18 “(E) regulatory systems;

19 “(F) innovative services and specialized in-
20 stitutions to serve the small and medium enter-
21 prise market; and

22 “(G) compliance with international finan-
23 cial standards.

24 “(2) LENDING PROGRAMS OF FINANCIAL INSTI-
25 TUTIONS.—Activities to promote the establishment

1 of lending programs of financial institutions for
2 small and medium enterprises in sub-Saharan Afri-
3 can countries by—

4 “(A) improving the quality of management
5 of such financial institutions to ensure their
6 safety and stability;

7 “(B) establishing effective credit risk man-
8 agement systems to improve the quality of the
9 assets of such financial institutions and the
10 ability of such financial institutions to research
11 and assess overall credit risk;

12 “(C) supporting effective credit risk man-
13 agement systems described in subparagraph (B)
14 by developing internal credit rating systems and
15 credit assessment tools that improve the ability
16 of such financial institutions to evaluate indi-
17 vidual credit worthiness and measure the overall
18 amount of risk posed by the total number of
19 borrowers; and

20 “(D) establishing comprehensive collateral
21 management programs to control borrower as-
22 sets against default and exposure as part of the
23 risk management process.

24 “(3) TECHNOLOGY AND INFORMATION RE-
25 SOURCES.—Activities to improve the technology and

1 information resources of financial institutions and
2 small and medium enterprises in sub-Saharan Afri-
3 can countries. Such activities may include—

4 “(A) developing computer programs and
5 networking capabilities to provide connectivity
6 between domestic and international banking
7 sectors;

8 “(B) increasing access by finance min-
9 istries and central banks to information man-
10 agement systems and high-speed Internet
11 connectivity; and

12 “(C) promoting the development of Inter-
13 net service providers.

14 “(4) BUSINESS DEVELOPMENT IN RURAL AND
15 PERI-URBAN AREAS.—Activities to promote the de-
16 velopment of small and medium enterprises in sub-
17 Saharan African countries that are located in rural
18 and peri-urban areas. Such activities may include—

19 “(A) carrying out short- and long-term
20 training in entrepreneurship, such as the ‘Busi-
21 ness Opportunity Centers’ program of the
22 United States Agency for International Devel-
23 opment in the Republic of Zimbabwe;

24 “(B) providing training in entrepreneur-
25 ship, including basic business management, ac-

1 counting, bookkeeping, marketing, risk manage-
2 ment, and computer skills;

3 “(C) providing assistance to meet inter-
4 national, particularly United States, quality
5 control standards;

6 “(D) providing business services on a fee-
7 for-service basis, such as telephone, fax, email,
8 e-learning, and money transfer services, based
9 on the cost recovery model of the ‘Business Op-
10 portunity Centers’ program in Zimbabwe;

11 “(E) carrying out capacity-building activi-
12 ties for microenterprise business associations
13 and microfinance networks; and

14 “(F) providing training in internationally
15 recognized labor rights and core labor stand-
16 ards.

17 “(5) SMALL BUSINESS DEVELOPMENT IN POST-
18 CONFLICT STATES.—Activities to promote small
19 business development in post-conflict sub-Saharan
20 African countries. Such activities may include—

21 “(A) providing rural agriculture entrepre-
22 neurship training to aid displaced persons, par-
23 ticularly youth, with the purpose of helping
24 such persons return to rural areas and re-en-
25 gage in agricultural activities;

1 “(B) adopting more productive and profit-
2 able production systems such as conservation
3 farming technologies, biotechnologies, biosafety
4 technologies, and increasing the marketability
5 of the surplus production of such systems;

6 “(C) providing assistance to add commer-
7 cial value to agricultural goods and to sell such
8 goods to local and regional markets; and

9 “(D) encouraging agricultural entrepre-
10 neurship and the formation of cooperatives and
11 marketing associations and providing such asso-
12 ciations with organizational and technical as-
13 sistance.

14 “(6) YOUTH ENTREPRENEURSHIP PROGRAMS.—
15 Activities to establish youth entrepreneurship train-
16 ing programs in schools or through community part-
17 nerships with business and youth organizations in
18 sub-Saharan African countries to promote economic
19 skills, ethics, integrity, and healthy life skills among
20 youth in such countries. Such activities may include
21 providing assistance through United States and
22 international youth organizations located in sub-Sa-
23 haran African countries and ministries of education,
24 local schools, businesses, and youth groups to—

1 “(A) teach basic concepts of business eco-
2 nomics and free enterprise and the relevance of
3 education for such youth to improving the qual-
4 ity of their lives;

5 “(B) teach basic concepts of good govern-
6 ance, the rule of law, human rights, and citizen-
7 ship as they relate to national development;

8 “(C) assist youth to make decisions about
9 their educational and professional future and
10 develop communication skills that are vital to
11 succeed in the domestic, regional, and inter-
12 national business world;

13 “(D) develop a specialized curriculum for
14 youth in rural and peri-urban areas and utilize,
15 whenever possible, business and community vol-
16 unteers to deliver such curriculum; and

17 “(E) organize student-led enterprises.

18 “(7) INTELLECTUAL PROPERTY RIGHTS PRO-
19 TECTION.—Activities to introduce and strengthen
20 laws, regulations, and enforcement mechanisms to
21 protect national and international intellectual prop-
22 erty rights and to protect the people and industries
23 of sub-Saharan African countries against imported
24 counterfeit consumer and other goods.

1 “(8) ANTI-CORRUPTION INITIATIVES.—Activi-
2 ties that combat corruption, improve transparency
3 and accountability, and promote other forms of good
4 governance and management in sub-Saharan African
5 countries. Such activities may include—

6 “(A) providing technical assistance to gov-
7 ernments of sub-Saharan African countries that
8 are implementing the United Nations Conven-
9 tion against Corruption, including assistance to
10 combat anti-competitive, unethical, and corrupt
11 activities, including protection against actions
12 that may distort or inhibit transparency in mar-
13 ket mechanisms and impair the development of
14 small and medium enterprises.

15 “(B) providing assistance to develop a
16 legal framework for commercial transactions
17 that fosters business practices that promote
18 transparent, ethical, and competitive behavior
19 in the economic sector, such as commercial
20 codes that incorporate international standards
21 and protection of national and international in-
22 tellectual property rights and core labor stand-
23 ards; and

24 “(C) providing training and technical as-
25 sistance relating to drafting of anti-corruption,

1 privatization, and competitive statutory and ad-
2 ministrative codes, and providing technical as-
3 sistance to ministries and agencies imple-
4 menting anti-corruption laws and regulations.

5 “(e) CONSIDERATION.—In making a determination to
6 provide assistance to financial institutions referred to in
7 subsection (b), the President should take into consider-
8 ation the extent to which a project establishes and imple-
9 ments a nondiscrimination in lending policy to prohibit
10 discrimination based on ethnicity, sex, color, race, religion,
11 physical disability, marital status, or age, and a policy
12 against predatory lending practices.

13 “(d) ACCEPTANCE AND USE OF GIFTS, DEVISES, BE-
14 QUESTS, AND GRANTS.—In accordance with section
15 635(d) of this Act, the President may accept and use in
16 furtherance of the purposes of this section, money, funds,
17 property, and services of any kind made available by gift,
18 devise, bequest, grant, or otherwise for such purposes.

19 “(e) REPORT.—

20 “(1) IN GENERAL.—Not later than January 31
21 of each year, the President shall transmit to the ap-
22 propriate congressional committees a report that
23 contains a detailed description of the implementation
24 of this section for the prior fiscal year.

1 “(2) CONTENTS.—The report required by para-
2 graph (1) shall contain a description of the number
3 of grants, contracts, cooperative agreements, or
4 other form of assistance provided under this section
5 with a detailed description of—

6 “(A) the amount of each grant, contract,
7 cooperative agreement, or other form of assist-
8 ance; and

9 “(B) the name of each recipient and each
10 country with respect to which projects or activi-
11 ties under the grant, contract, cooperative
12 agreement, or other form of assistance were
13 carried out.

14 “(3) AVAILABILITY TO THE PUBLIC.—The re-
15 port required by this subsection shall be made avail-
16 able to the public on the Internet website of the
17 United States Agency for International Develop-
18 ment.

19 “(f) DEFINITIONS.—In this section:

20 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—The term ‘appropriate congressional com-
22 mittees’ means—

23 “(A) the Committee on International Rela-
24 tions of the House of Representatives; and

1 “(B) the Committee on Foreign Relations
2 of the Senate.

3 “(2) SMALL AND MEDIUM ENTERPRISES IN
4 SUB-SAHARAN AFRICAN COUNTRIES.—

5 “(A) IN GENERAL.—The term ‘small and
6 medium enterprises in sub-Saharan African
7 countries’ means corporations and other legal
8 entities that meet the requirements of this sub-
9 paragraph. A legal entity meets the require-
10 ments of this subparagraph if it—

11 “(i) is organized under the laws of a
12 sub-Saharan African country and has its
13 principal place of business within such
14 country;

15 “(ii) is owned or controlled by natural
16 persons who are citizens of the sub-Saha-
17 ran African country referred to in clause
18 (i); and

19 “(iii) has fewer than 50 employees.

20 “(B) OWNED OR CONTROLLED.—In sub-
21 paragraph (A), the term ‘owned or controlled’
22 means—

23 “(i) in the case of a corporation, the
24 holding of at least 50 percent (by vote or

1 value) of the capital structure of the cor-
2 poration; and

3 “(ii) in the case of any other kind of
4 legal entity, the holding of interests rep-
5 resenting at least 50 percent of the capital
6 structure of the entity.

7 “(3) SUB-SAHARAN AFRICAN COUNTRIES.—The
8 term ‘sub-Saharan African countries’ means the
9 countries specified in section 107 of the African
10 Growth and Opportunity Act (19 U.S.C. 3706).

11 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the President to carry
13 out this section \$30,000,000 for each of the fiscal years
14 2007 and 2008.”.

15 (b) CONFORMING AMENDMENT.—Section 497 of the
16 Foreign Assistance Act of 1961 (22 U.S.C. 2294) is
17 amended in the second sentence by adding at the end be-
18 fore the period the following: “or section 496A”.

19 **SEC. 6. ACTIONS TO IMPROVE TRADE BETWEEN SUB-SAHA-**
20 **RAN AFRICAN COUNTRIES AND THE UNITED**
21 **STATES.**

22 (a) ACTIONS OF THE UNITED STATES TRADE REP-
23 RESENTATIVE.—

24 (1) PLAN.—The United States Trade Rep-
25 resentative, in consultation with the Administrator

1 of the United States Agency for International Devel-
2 opment and the Secretary of Agriculture, shall de-
3 velop a comprehensive plan for the expansion and di-
4 versification of agricultural trade between sub-Saha-
5 ran African countries and the United States under
6 the African Growth and Opportunity Act (19 U.S.C.
7 3701 et seq.).

8 (2) ELEMENTS.—The plan required by para-
9 graph (1) shall—

10 (A) identify the major agricultural prod-
11 ucts that are exported between sub-Saharan Af-
12 rican countries and the United States;

13 (B) analyze critical constraints to agricul-
14 tural trade between sub-Saharan African coun-
15 tries and the United States and efforts to re-
16 move such constraints;

17 (C) increase capacity building for research
18 and development for local, regional, and inter-
19 national markets, agricultural export products,
20 quality improvement, and international food
21 standards;

22 (D) strengthen infrastructure and commu-
23 nication networks to reduce marketing and
24 transaction costs, in collaboration with the

1 United States Agency for International Devel-
2 opment;

3 (E) increase access to market information
4 (such as information relating to prices, product
5 quality and demand, input quality and costs,
6 and customs rules and regulations) for
7 smallholder farmers, farmer groups and co-
8 operatives, and relevant government ministries
9 of sub-Saharan African countries;

10 (F) establish and strengthen public-private
11 partnerships in sub-Saharan African countries
12 to enhance agricultural trade between such
13 countries and the United States;

14 (G) establish consultation mechanisms be-
15 tween the five United States Agricultural Tech-
16 nical Advisory Committees and counterpart
17 groups in sub-Saharan African countries and
18 regional economic organizations; and

19 (H) support ongoing discussions with agri-
20 cultural government ministries of sub-Saharan
21 African countries and private sector agricultural
22 organizations in sub-Saharan African countries
23 on issues of mutual concern in the context of
24 World Trade Organization (WTO) agricultural
25 negotiations.

1 (3) REPORT.—Not later than one year after the
2 date of the enactment of this Act, the United States
3 Trade Representative shall submit to Congress a re-
4 port that contains—

5 (A) a detailed description of the plan re-
6 quired by this subsection; and

7 (B) recommendations for legislation, ad-
8 ministrative actions, or other actions that the
9 Trade Representative considers appropriate to
10 implement the plan.

11 (b) ACTIONS OF THE DEPARTMENT OF STATE.—

12 (1) ACTIVITIES TO STRENGTHEN FUNDA-
13 MENTAL LABOR RIGHTS.—

14 (A) SENSE OF CONGRESS.— It is the sense
15 of Congress that sustained economic growth
16 and development in sub-Saharan Africa will de-
17 pend on building strong, effective enforcement
18 of international labor standards and democratic
19 trade unions that can responsibly represent
20 workers' interests at the workplace and with
21 their governments in sub-Saharan African coun-
22 tries.

23 (B) ACTIVITIES.—The Secretary of State
24 shall undertake activities to strengthen inter-

1 nationally recognized labor rights and standards
2 in sub-Saharan African countries by—

3 (i) ensuring that governments and
4 businesses in sub-Saharan African coun-
5 tries are aware of their obligations
6 (through membership in the International
7 Labor Organization (ILO) as well as under
8 United States trade preference programs
9 such as the generalized system of pref-
10 erences and the African Growth and Op-
11 portunity Act) to respect, promote, and re-
12 alize the international labor standards es-
13 tablished by the ILO;

14 (ii) monitoring the enforcement of
15 labor laws in sub-Saharan African coun-
16 tries, including labor laws relating to work-
17 ers' rights to free association, prohibitions
18 on child labor, forced labor, and discrimi-
19 nation, safety in the work environment,
20 workplace standards laws regulating min-
21 imum wage and hours of work, and collec-
22 tive bargaining, through ensuring, among
23 other things, that reporting on labor rights
24 at United States missions is a priority; and

1 (iii) providing technical assistance to
2 enhance enforcement of labor laws in sub-
3 Saharan African countries and for institu-
4 tional capacity building of trade unions to
5 increase their capabilities to represent
6 workers at workplaces and with their gov-
7 ernments.

8 (2) ACTIVITIES TO PROMOTE DIALOGUE AMONG
9 BUSINESS, GOVERNMENT, LABOR, AND NONGOVERN-
10 MENTAL ORGANIZATIONS.—The Secretary of State
11 shall undertake activities to promote social dialogue
12 among business, government, labor, and nongovern-
13 mental organizations, including all types of negotia-
14 tions, consultations, or exchanges of information be-
15 tween, or among, representatives of business, gov-
16 ernment, labor, and nongovernmental organizations,
17 on issues of common interest relating to economic
18 and social policy.

19 (c) ACTIONS OF THE FOOD AND DRUG ADMINISTRA-
20 TION.—The Secretary Health and Human Services, acting
21 through the Food and Drug Administration—

22 (1) shall provide training to agricultural pro-
23 ducers in sub-Saharan African countries to ensure
24 that exports of such producers meet United States
25 food safety standards;

1 (2) should provide technical assistance and ca-
2 pacity building to agricultural producers in sub-Sa-
3 haran African countries to ensure such producers
4 meet phytosanitary standards in planting, culti-
5 vating, harvesting, and processing agricultural prod-
6 ucts for export, with particular attention to institu-
7 tions serving smallholder producers, small-scale rural
8 businesses, and cooperatives; and

9 (3) should provide assistance to strengthen ag-
10 ricultural research and extension capacity to dis-
11 seminate relevant information on pests and diseases
12 to smallholder farmers in sub-Saharan African coun-
13 tries, as well as successful, cost efficient and envi-
14 ronmentally sound solutions.

15 (d) ACTIONS OF THE FOREIGN AGRICULTURE SERV-
16 ICE.—The Secretary of Agriculture, acting through the
17 Foreign Agriculture Service, should improve market ac-
18 cess for United States agricultural products in sub-Saha-
19 ran African countries by—

20 (1) in conjunction with the Secretary of Com-
21 merce, strengthening the capacity of agricultural
22 producer organizations in sub-Saharan African coun-
23 tries to identify agricultural equipment and supply
24 needs;

1 (2) working with United States financial insti-
2 tutions to increase the number of such financial in-
3 stitutions that cooperate with the Supplier Credit
4 Guarantee Program;

5 (3) working with financial institutions in sub-
6 Saharan African countries to remove obstacles that
7 inhibit fuller implementation of the Export Credit
8 Guarantee and Intermediate Export Credit Guar-
9 antee programs; and

10 (4) facilitating access for ports of entry and
11 warehouse facilities in sub-Saharan African coun-
12 tries to the Facilities Guarantee Program.

13 (e) ACTIONS OF THE UNITED STATES AGENCY FOR
14 INTERNATIONAL DEVELOPMENT.—

15 (1) TECHNICAL ASSISTANCE RELATING TO
16 AGOA ELIGIBILITY.—The President, acting through
17 the Administrator of the United States Agency for
18 International Development, shall provide technical
19 assistance to eligible sub-Saharan African countries
20 under the African Growth and Opportunity Act (19
21 U.S.C. 3701 et seq.) to assist such countries to con-
22 tinue to meet the eligibility requirements under such
23 Act, including eligibility requirements relating to po-
24 litical and economic reforms.

1 (2) TECHNICAL ASSISTANCE RELATING TO
2 AGOA BENEFITS.—The President, acting through the
3 Administrator of the United States Agency for
4 International Development, shall provide technical
5 assistance to eligible sub-Saharan African countries
6 under the African Growth and Opportunity Act to
7 enable small and medium enterprises in sub-Saharan
8 African countries, including agricultural producers,
9 processors and traders, to maximize benefits under
10 such Act (and the amendments made by that Act),
11 including—

12 (A) specific training for business owners
13 on expanding access to the benefits of the Afri-
14 can Growth and Opportunity Act (and the
15 amendments made by that Act) and other trade
16 preference programs;

17 (B) capacity building for entrepreneurs on
18 production strategies, quality standards, forma-
19 tion of cooperatives, market research, and mar-
20 ket development;

21 (C) capacity building to promote diver-
22 sification of products and value-added proce-
23 ssing; and

24 (D) capacity building and technical assist-
25 ance for businesses and institutions to help

1 them comply with United States counter-ter-
2 rorism laws.

3 (3) TRANSPORTATION AND COMMUNICA-
4 TIONS.—

5 (A) FINDINGS.—Congress finds the fol-
6 lowing:

7 (i) A major impediment to trade be-
8 tween sub-Saharan African countries and
9 the United States is inadequate direct and
10 regular transport, for products and people,
11 between such countries and the United
12 States.

13 (ii) This transport deficit has reduced
14 the competitiveness of products of sub-Sa-
15 haran African countries, hindered the peo-
16 ple of sub-Saharan African countries from
17 expanding exports of perishable items,
18 such as cut flowers or fresh fruits and
19 vegetables, limited the ability of sub-Saha-
20 ran African countries to increase tourism,
21 and limited the overall volume of trade be-
22 tween sub-Saharan African countries and
23 the United States.

24 (B) SENSE OF CONGRESS.—It is the sense
25 of Congress that there should be an expansion

1 of port-to-port relationships between sub-Saha-
2 ran African countries and the United States.
3 Such relationships should facilitate—

4 (i) increased coordination between
5 land, sea, and airports to reduce time in
6 transit and thus freight charges;

7 (ii) interaction between technical staff
8 from land, sea, and airports in sub-Saha-
9 ran African countries and the United
10 States to increase efficiency and safety
11 procedures and protocols;

12 (iii) coordination between chambers of
13 commerce, freight forwarders, customs bro-
14 kers, and others involved in consolidating
15 and moving freight; and

16 (iv) joint negotiations with shipping
17 companies and airlines on direct shipping
18 and flights between land, sea, and airports
19 in sub-Saharan African countries and the
20 United States to increase frequency and
21 capacity.

22 (C) ASSISTANCE.—The President, acting
23 through the Administrator of the United States
24 Agency for International Development and the
25 Global Development Alliance of the Agency,

1 shall facilitate trade between sub-Saharan Afri-
2 can countries and the United States by encour-
3 aging public-private partnerships involving busi-
4 nesses in sub-Saharan African countries and
5 the United States, national and local govern-
6 ments, bilateral donors, and international finan-
7 cial institutions, to create needed transportation
8 and communication infrastructure for products
9 and people between rural areas and markets
10 (such as “farm-to-market” roads), and between
11 sub-Saharan African countries.

12 (f) ACTIONS OF THE SMALL BUSINESS ADMINISTRA-
13 TION.—The Administrator of the Small Business Adminis-
14 tration should conduct trade training programs for small
15 businesses in the United States, such as the Export Trade
16 Assistance Program, which convey basic information on
17 selling goods to foreign markets, including markets in sub-
18 Saharan African countries.

19 (g) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) GENERAL ACTIVITIES.—There are author-
21 ized to be appropriated to carry out this section
22 (other than subsection (b)) \$5,000,000 for each of
23 the fiscal years 2007 and 2008.

24 (2) ACTIVITIES OF THE DEPARTMENT OF
25 STATE.—There are authorized to be appropriated to

1 carry out subsection (b) \$3,000,000 for each of the
2 fiscal years 2007 and 2008.

3 (3) AVAILABILITY.—Amounts appropriated pur-
4 suant to the authorization of appropriations under
5 paragraphs (1) and (2) are authorized to remain
6 available until expended.

7 **SEC. 7. DEFINITIONS.**

8 In this Act:

9 (1) SMALL AND MEDIUM ENTERPRISES IN SUB-
10 SAHARAN AFRICAN COUNTRIES.—The term “small
11 and medium enterprises in sub-Saharan African
12 countries” has the meaning given the term in section
13 496A(e)(2) of the Foreign Assistance Act of 1961
14 (as added by section 5(a) of this Act).

15 (2) SUB-SAHARAN AFRICAN COUNTRIES.—The
16 term “sub-Saharan African countries” means the
17 countries specified in section 107 of the African
18 Growth and Opportunity Act (19 U.S.C. 3706).

○

Mr. SMITH OF NEW JERSEY. Without objection, the bill will be considered as read and open for amendment at any point.

The clerk will report the bill.

Ms. PLUMLEY. H.R. 4319, to provide assistance for small and medium enterprises in sub-Saharan African countries and for other purposes.

Mr. SMITH OF NEW JERSEY. Without objection, it is considered as read and open for amendment. And I recognize myself for a brief moment to explain the bill.

Two weeks ago this Committee held a hearing on removing obstacles to small and medium enterprises in Africa. That hearing was a prelude to our consideration of H.R. 4319, the Assistance For Small and Medium Enterprises in sub-Saharan African Countries Act.

I would like to thank Mr. Lantos, the Ranking Member of our Full Committee, for his cooperative efforts in working with me and other Members of the Committee to craft this legislation—it is his bill—to meet a need that our hearing confirmed.

While the African Growth and Opportunity Act, or AGOA, was intended to build business linkages between African and American entrepreneurs, too often these linkages have involved the oil trade rather than small and medium enterprises. As we all know, it is small businesses that create jobs, and the lack of small and medium enterprises' participation in AGOA limits the benefits we had hoped such businesses would realize.

In the hearing, we heard witnesses tell us that too many obstacles interfered with the ability of small and medium enterprises to take advantage of the opportunities offered by AGOA. One of the main problems is the lack of attention to United States-African agricultural trade; 70 percent of Africans are engaged in agriculture, and if our trade preliminaries have any hope of reducing poverty, we must help small and medium businesses in the agricultural sector.

H.R. 4319 does just that. To that end, H.R. 4319 empowers the FDA to provide technical assistance to African farmers to ensure that their exports meet American requirements and calls on the Department of Agriculture to help improve market access for United States agricultural products in African countries.

H.R. 4319 does not neglect small and medium enterprises outside of the agricultural sector. It calls on the Small Business Administration to convey basic information on selling goods in foreign markets.

A very important aspect of this legislation is that H.R. 4319 protects the rights of workers to encourage productive labor-management relations so that increased United States-Africa trade is not plagued by workers laboring in unsafe conditions.

Provisions of this bill have long been championed by Members of the Committee, including Mr. Payne and Mr. Royce, but were stripped out from the last AGOA bill. We believe that the reinsertion of these provisions in the legislation will enable our trade preference programs to be more effective in broadening the benefits to small and medium enterprises.

I yield to Mr. Payne for his comments.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

H.R. 4319

Two weeks ago, this Subcommittee held a hearing on removing obstacles to small and medium enterprises in Africa. That hearing was a prelude to our consideration of H.R. 4319—the Assistance for Small and Medium Enterprises in Sub-Saharan African Countries Act.

I'd like to thank Mr. Lantos, the ranking member of our Committee, for his cooperative efforts in working with me to craft this legislation to meet a need that our hearing confirmed. While the African Growth and Opportunity Act, or AGOA, was intended to build business linkages between African and American entrepreneurs, too often these linkages have involved the oil trade rather than small and medium enterprises. As we all know, it is small business that creates jobs, and the lack of small and medium enterprise participation in AGOA limits the benefits we had hoped such businesses would realize.

In the hearing, we heard witnesses tell us that too many obstacles interfered with the ability of small and medium enterprises to take advantage of the opportunities offered by AGOA. One of the main problems is the lack of attention to U.S.-African agriculture trade. Seventy percent of Africans are engaged in agriculture, and if our trade programs have any hope of reducing poverty, we must help small and medium business in the agriculture sector. H.R. 4319 does that.

To that end, H.R. 4319 also empowers the Food and Drug Administration to provide technical assistance to African farmers to ensure that their exports meet American requirements and calls on the Department of Agriculture to help improve market access for U.S. agricultural products in Africa countries.

However, H.R. 4319 does not neglect small and medium enterprises outside the agriculture sector. It calls on the Small Business Administration to convey basic information on selling goods in foreign markets.

A very important aspect of this legislation is that H.R. 4319 protects the rights of workers and encourages productive labor-management relations so that increased U.S.-Africa trade is not plagued by workers laboring in unsafe conditions.

Provisions of this bill have long been championed by members of the Subcommittee, such as Mr. Royce and Mr. Payne, but were stripped from the last AGOA bill. We believe the reinsertion of these provisions in legislation will enable all our trade preference programs to be more effective in broadening the benefits to small and medium enterprises.

I ask my colleagues to give favorable consideration to H.R. 4319, which is a very timely and useful effort to make U.S.-Africa trade as effective as it was intended to be.

Mr. PAYNE. Thank you, Mr. Chairman. And I strongly support 4319. As we know, perhaps 80 percent of population in Africa lives in rural areas, and it would just seem that it is a natural thing for people who live in rural areas to be able to use that area for agriculture.

We do know there are some problems here in our country, in Europe and in Japan where a tremendous amount of agricultural subsidies are given to the farmers in the Western Europe, United States and Japanese countries. We will be unable to impact that here immediately, but I think that we should do everything that we can to assist the African farmer.

Unfortunately, about 25 years ago, USAID got out of the business of assisting in farming, and until Administrator Natsios returned, there was no emphasis on agriculture at all, and he did start a move for USAID to focus on agriculture.

If you keep people—if there are opportunities in the agricultural regions, it will prevent people from rushing to the cities where the cities are overcrowded. It creates slums; people are looking for employment, and it just exacerbates an already bad situation. And so if there is a way to keep people in the rural areas in agricultural sectors, I think that that helps the countries in general.

Mr. Natsios has left USAID, but I hope the new administrator will pick up on the whole question of agriculture. But I think that this bill will certainly go a long way in assisting small and medium-size enterprises, and so I urge support of the legislation.

Mr. SMITH OF NEW JERSEY. Thank you.

Are there any amendments to the bill? Would anyone else like to be heard?

Ms. WATSON. Mr. Chairman, I do have a concern that was brought to me by representatives of the Ethiopian Government, and it had to do with IP, intellectual property.

But more so than that, they are the producer of a very fine coffee bean upon which some newly established coffee houses have made their fortunes; and the trade arrangements are such that there is a disincentive for the country of Ethiopia to grow the coffee bean, because they only get, like, 1 percent of the take, and it costs them so much to farm.

So I might also look to see if we can put protections in here for the intellectual property. They are trying to grab their brand name from them, so there are some trade considerations that I would like to see. I will then look at bill and prepare an amendment along those lines.

Mr. SMITH OF NEW JERSEY. Thank you.

The question occurs on the motion to report the bill H.R. 4319, Assistance For Small and Medium Enterprises in sub-Saharan African Countries Act of 2005, favorably.

All those in favor, signify by saying aye.

Opposed, no.

The motion is approved and the bill is reported favorably. The staff is directed to make any technical and conforming amendments.

We now move to our next piece of legislation. Pursuant to notice, I call up the bill H.R. 4780, the Global Online Freedom Act of 2006, for purposes of markup, and move its favorable recommendation to the Full Committee. Without objection, the bill will be considered as read and open for amendment at any point.

[H.R. 4780 follows:]

109TH CONGRESS
2D SESSION

H. R. 4780

To promote freedom of expression on the Internet, to protect United States businesses from coercion to participate in repression by authoritarian foreign governments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2006

Mr. SMITH of New Jersey (for himself, Mr. LANTOS, Mr. WOLF, Mr. PAYNE, Mr. ROHRBACHER, and Mr. RYAN of Ohio) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote freedom of expression on the Internet, to protect United States businesses from coercion to participate in repression by authoritarian foreign governments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Global Online Freedom Act of 2006”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Definitions.
 Sec. 4. Severability.

TITLE I—PROMOTION OF GLOBAL INTERNET FREEDOM

Sec. 101. Statement of policy.
 Sec. 102. Sense of Congress.
 Sec. 103. Annual Country Reports on Human Rights Practices.
 Sec. 104. Office of Global Internet Freedom.
 Sec. 105. Annual designation of Internet-restricting countries; report.

TITLE II—MINIMUM CORPORATE STANDARDS FOR ONLINE
 FREEDOM

Sec. 201. Protection of search engines and content services.
 Sec. 202. Integrity of search engines.
 Sec. 203. Transparency regarding search engine filtering.
 Sec. 204. Protection of United States-supported online content.
 Sec. 205. Transparency regarding Internet censorship.
 Sec. 206. Integrity of user identifying information.
 Sec. 207. Penalties.

TITLE III—EXPORT CONTROLS FOR INTERNET-RESTRICTING
 COUNTRIES

Sec. 301. Establishment of export controls.
 Sec. 302. Report.

3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) Freedom of speech and freedom of the press
 6 are fundamental human rights, and free use of the
 7 Internet is protected in Article 19 of the Universal
 8 Declaration of Human Rights, which guarantees
 9 freedom to “receive and impart information and
 10 ideas through any media regardless of frontiers”.

1 (2) The Internet has been a success because it
2 quickly provides information to its more than 972
3 million users globally.

4 (3) The growth of the Internet and other infor-
5 mation technologies can be a force for democratic
6 change if the information is not subject to political
7 censorship.

8 (4) The Internet has played a role in bringing
9 international attention to issues the discussion of
10 which are forbidden by authoritarian foreign govern-
11 ments, such as attempts by the Government of the
12 People's Republic of China to suppress news of the
13 severe acute respiratory syndrome (SARS) outbreak
14 in 2004.

15 (5) The rapid provision of full and uncensored
16 information through the Internet has become a
17 major industry of the United States, and one of its
18 major exports.

19 (6) Political censorship of the Internet degrades
20 the quality of that service and ultimately threatens
21 the integrity and viability of the industry itself, both
22 in the United States and abroad.

23 (7) Authoritarian foreign governments such as
24 the Governments of Belarus, Burma, the People's
25 Republic of China, Cuba, Iran, Libya, the Maldives,

1 Nepal, North Korea, Saudi Arabia, Syria, Tunisia,
2 Turkmenistan, Uzbekistan, and Vietnam block, re-
3 strict, and monitor the information their citizens try
4 to obtain.

5 (8) Web sites that provide uncensored news and
6 information, such as the Web sites of the Voice of
7 America and Radio Free Asia, are routinely blocked
8 in such countries.

9 (9) In June 2003, the Government of the So-
10 cialist Republic of Vietnam arrested, convicted of
11 “spying”, and sentenced to 13 years’ imprisonment
12 and 3 years’ house arrest (later reduced on appeal
13 to 5 years’ imprisonment and 6 years’ house arrest)
14 Dr. Pham Hong Son after he translated an Internet
15 article titled “What is Democracy” from the Web
16 site of the United States Embassy in Vietnam.

17 (10) According to the Department of State’s
18 Country Reports on Human Rights Practices, the
19 Government of Vietnam in 2004 tightened control of
20 the Internet, requiring Internet agents, such as
21 cyber cafes, to register the personal information of
22 their customers and store records of Internet sites
23 visited by customers. The Vietnamese Government
24 also monitored electronic mail, searched for sensitive
25 key words, and regulated Internet content.

1 (11) The Government of the People’s Republic
2 of China has employed censorship of the Internet in
3 violation of Article 35 of the Chinese Constitution,
4 which guarantees freedom of speech, freedom of the
5 press, freedom of assembly, freedom of association,
6 freedom of procession, and freedom of demonstra-
7 tion.

8 (12) This censorship by the Chinese Govern-
9 ment promotes, perpetuates, and exacerbates a
10 xenophobic—and at times particularly anti-Amer-
11 ican—Chinese nationalism, the long-term effect of
12 which will be deleterious to United States efforts to
13 prevent the relationship between the United States
14 and China from becoming hostile.

15 (13) Unchecked transfers of dual use tech-
16 nology have already increased China’s ability to suc-
17 cessfully invade Taiwan, and correspondingly dimin-
18 ished United States and Taiwanese capacity to de-
19 fend that democratic society, thereby greatly increas-
20 ing tension in East Asia.

21 (14) Technology companies in the United
22 States that operate in countries controlled by au-
23 thoritarian foreign governments have a responsibility
24 to comply with the principles of the Universal Dec-
25 laration of Human Rights.

1 (15) Technology companies in the United
2 States have succumbed to pressure by authoritarian
3 foreign governments to provide such governments
4 with information about Internet users that has led
5 to the arrest and imprisonment of cyber dissidents,
6 in violation of the corporate responsibility of such
7 companies to protect and uphold human rights.

8 (16) Technology companies in the United
9 States have provided the technology and training to
10 authoritarian foreign governments to assist such
11 governments in filtering and blocking information
12 that promotes democracy and freedom.

13 (17) Technology companies in the United
14 States have failed to develop standards by which
15 they can conduct business with authoritarian foreign
16 governments while protecting human rights to free-
17 dom of speech and freedom of expression.

18 (18) The United States supports the universal
19 right to freedom of speech and freedom of the press.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) APPROPRIATE CONGRESSIONAL COMMIT-
23 TEES.—Except as otherwise provided in this Act, the
24 term “appropriate congressional committees”
25 means—

1 (A) the Committee on International Rela-
2 tions of the House of Representatives; and

3 (B) the Committee on Foreign Relations of
4 the Senate.

5 (2) FOREIGN OFFICIAL.—

6 (A) IN GENERAL.—The term “foreign offi-
7 cial” means—

8 (i) any officer or employee of a for-
9 eign government or any department, agen-
10 cy, state-owned enterprise, or instrumen-
11 tality thereof; or

12 (ii) any person acting in an official ca-
13 pacity for or on behalf of any such govern-
14 ment or department, agency, state-owned
15 enterprise, or instrumentality.

16 (B) STATE-OWNED ENTERPRISE.—For
17 purposes of subparagraph (A), the term “state-
18 owned enterprise” means a commercial entity in
19 which a foreign government owns, directly or
20 indirectly, more than 50 percent of the out-
21 standing capital stock or other beneficial inter-
22 est in such commercial entity.

23 (3) INTERNET.—The term “Internet” means
24 the combination of computer facilities, telecommuni-
25 cations facilities, electromagnetic transmission

1 media, and related equipment and software, com-
2 prising the interconnected worldwide network of
3 computer networks that employ the Transmission
4 Control Protocol/Internet Protocol or any successor
5 protocol to transmit information.

6 (4) INTERNET CONTENT HOSTING SERVICE.—
7 The terms “Internet content hosting service” and
8 “content hosting service” mean a service that—

9 (A) stores, through electromagnetic or
10 other means, electronic data, including the con-
11 tent of web pages, electronic mail, documents,
12 images, audio and video files, online discussion
13 boards, and weblogs; and

14 (B) makes such data available via the
15 Internet.

16 (5) INTERNET JAMMING.—The term “Internet
17 jamming” means jamming, censoring, blocking,
18 monitoring, or restricting access to the Internet, or
19 to content made available via the Internet, by using
20 technologies such as firewalls, filters, and “black
21 boxes”.

22 (6) INTERNET-RESTRICTING COUNTRY.—The
23 term “Internet-restricting country” means a country
24 designated by the President pursuant to section
25 105(a) of this Act.

1 (7) INTERNET SEARCH ENGINE.—The term
2 “Internet search engine” or “search engine” means
3 a service made available via the Internet that, on the
4 basis of query consisting of terms, concepts, ques-
5 tions, or other data input by a user, searches infor-
6 mation available on the Internet and returns to the
7 user a means, such as a hyperlinked list of Uniform
8 Resource Identifiers, of locating, viewing, or
9 downloading information or data available on the
10 Internet relating to that query.

11 (8) LEGITIMATE FOREIGN LAW ENFORCEMENT
12 PURPOSES.—

13 (A) IN GENERAL.—The term “legitimate
14 foreign law enforcement purposes” means for
15 purposes of enforcement, investigation, or pros-
16 ecution by a foreign official based on a publicly
17 promulgated law of reasonable specificity that
18 proximately relates to the protection or pro-
19 motion of the health, safety, or morals of the
20 citizens of that jurisdiction.

21 (B) RULE OF CONSTRUCTION.—For pur-
22 poses of this Act, the control, suppression, or
23 punishment of peaceful expression of political or
24 religious opinion, which is protected by Article
25 19 of the International Covenant on Civil and

1 Political Rights, does not constitute a legitimate
2 foreign law enforcement purpose.

3 (9) PROTECTED FILTER TERMS.—The term
4 “protected filter terms” means the words, terms,
5 and phrases identified by the Office of Global Inter-
6 net Freedom pursuant to section 104(b)(4) of this
7 Act.

8 (10) SUBSTANTIAL RESTRICTIONS ON INTER-
9 NET FREEDOM.—The term “substantial restrictions
10 on Internet freedom” means actions that restrict or
11 punish the free availability of information via the
12 Internet for reasons other than legitimate foreign
13 law enforcement purposes, including—

14 (A) deliberately blocking, filtering, or cen-
15 soring information available via the Internet
16 based on its peaceful political or religious con-
17 tent; or

18 (B) persecuting, prosecuting, or otherwise
19 punishing an individual or group for posting or
20 transmitting peaceful political or religious opin-
21 ions via the Internet, including by electronic
22 mail.

23 (11) UNITED STATES BUSINESS.—The term
24 “United States business” means—

1 (A) any corporation, partnership, associa-
2 tion, joint-stock company, business trust, unin-
3 corporated organization, or sole proprietorship
4 that—

5 (i) has its principal place of business
6 in the United States; or

7 (ii) is organized under the laws of a
8 State of the United States or a territory,
9 possession, or commonwealth of the United
10 States;

11 (B) any issuer of a security registered pur-
12 suant to section 12 of the Securities Exchange
13 Act of 1934 (15 U.S.C. 78l); and

14 (C) any foreign subsidiary of an entity de-
15 scribed in subparagraph (A) or (B) to the ex-
16 tent such entity—

17 (i) controls the voting shares or other
18 equities of the foreign subsidiary; or

19 (ii) authorizes, directs, controls, or
20 participates in acts carried out by the for-
21 eign subsidiary that are prohibited by this
22 Act.

23 (12) UNITED STATES-SUPPORTED CONTENT.—
24 The term “United States-supported content” means
25 content that is created or developed, in whole or in

1 part, by a United States-supported information enti-
2 ty.

3 (13) UNITED STATES-SUPPORTED INFORMA-
4 TION ENTITY.—The term “United States-supported
5 information entity” means—

6 (A) any authority of the Government of
7 the United States; and

8 (B) any entity that—

9 (i) receives grants from the Broad-
10 casting Board of Governors to carry out
11 international broadcasting activities in ac-
12 cordance with the United States Inter-
13 national Broadcasting Act of 1994 (title
14 III of Public Law 103–236; 22 U.S.C.
15 6201 et seq.);

16 (ii) in coordination with the Inter-
17 national Broadcasting Bureau, carries out
18 all nonmilitary international broadcasting
19 activities supported by the Government of
20 the United States in accordance with such
21 Act (other than the international broad-
22 casting activities supported by the Broad-
23 casting Board of Governors as specified in
24 such Act); or

1 (iii) receives grants or other similar
2 funding from the Government of the
3 United States to carry out any information
4 dissemination activities.

5 (14) UNITED STATES-SUPPORTED WEBSITE.—
6 The term “United States-supported website” means
7 a location on the World Wide Web that is owned or
8 managed by, or is registered to, a United States-
9 supported information entity.

10 **SEC. 4. SEVERABILITY.**

11 If any provision of this Act, or the application of such
12 provision to any person or circumstance, is held invalid,
13 the remainder of this Act, and the application of such pro-
14 vision to other persons not similarly situated or to other
15 circumstances, shall not be affected by such invalidation.

16 **TITLE I—PROMOTION OF**
17 **GLOBAL INTERNET FREEDOM**

18 **SEC. 101. STATEMENT OF POLICY.**

19 It shall be the policy of the United States—

20 (1) to promote the ability of all to access and
21 contribute information, ideas, and knowledge via the
22 Internet and to advance the right to receive and im-
23 part information and ideas through any media and
24 regardless of frontiers as a fundamental component
25 of United States foreign policy;

1 (2) to use all instruments of United States in-
2 fluence, including diplomacy, trade policy, and ex-
3 port controls, to support, promote, and strengthen
4 principles, practices, and values that promote the
5 free flow of information; and

6 (3) to prohibit any United States businesses
7 from cooperating with officials of Internet-restricting
8 countries in effecting the political censorship of on-
9 line content.

10 **SEC. 102. SENSE OF CONGRESS.**

11 It is the sense of Congress that—

12 (1) the President should commence negotiations
13 in appropriate international fora, including the Or-
14 ganization of Economic Cooperation and Develop-
15 ment (OECD), the World Trade Organization
16 (WTO), the United Nations World Summit on the
17 Information Society (WSIS), and the Internet Gov-
18 ernance Forum (IGF), to obtain the agreement of
19 other countries to enact legislation similar to this
20 Act and to pursue the development of international
21 agreements protecting Internet freedom; and

22 (2) to the extent that a United States business
23 empowers or assists an authoritarian foreign govern-
24 ment in its efforts to restrict online access to the
25 Web sites of Radio Free Asia, the Voice of America,

1 or other United States-supported Web sites and on-
2 line access to United States Government reports
3 such as the Annual Country Reports on Human
4 Rights Practices and the International Religious
5 Freedom Report, that business is working contrary
6 to the foreign policy interests of the United States,
7 and is undercutting United States taxpayer-funded
8 efforts to promote freedom of information for all
9 people, including those in undemocratic and repres-
10 sive societies.

11 **SEC. 103. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
12 **PRACTICES.**

13 (a) REPORT RELATING TO ECONOMIC ASSIST-
14 ANCE.—Section 116 of the Foreign Assistance Act of
15 1961 (22 U.S.C. 2151n) is amended by adding at the end
16 the following new subsection:

17 “(g)(1) The report required by subsection (d) shall
18 include an assessment of the freedom of electronic infor-
19 mation in each foreign country. Such assessment shall in-
20 clude the following:

21 “(A) An assessment of the general extent to
22 which Internet access is available to and used by
23 citizens in that country.

24 “(B) An assessment of the extent to which gov-
25 ernment authorities in that country attempt to filter,

1 censor, or otherwise block Internet content, as well
2 as a description of the means by which they attempt
3 to block such content.

4 “(C) A description of known instances in which
5 government authorities in that country have per-
6 secuted, prosecuted, or otherwise punished a person
7 or group for the peaceful expression of political, reli-
8 gious, or dissenting views via the Internet, including
9 electronic mail.

10 “(2) In compiling data and making assessments for
11 the purposes of paragraph (1), United States diplomatic
12 mission personnel shall consult with human rights organi-
13 zations and other appropriate nongovernmental organiza-
14 tions.”.

15 (b) REPORT RELATING TO SECURITY ASSISTANCE.—
16 Section 502B of the Foreign Assistance Act of 1961 (22
17 U.S.C. 2304) is amended by adding at the end the fol-
18 lowing new subsection:

19 “(i)(1) The report required by subsection (b) shall in-
20 clude an assessment of the freedom of electronic informa-
21 tion in each foreign country. Such assessment shall in-
22 clude the following:

23 “(A) An assessment of the general extent to
24 which Internet access is available to and used by
25 citizens in that country.

1 “(B) An assessment of the extent to which gov-
2 ernment authorities in that country attempt to filter,
3 censor, or otherwise block Internet content, as well
4 as a description of the means by which they attempt
5 to block such content.

6 “(C) A description of known instances in which
7 government authorities in that country have per-
8 secuted, prosecuted, or otherwise punished a person
9 or group for the peaceful expression of political, reli-
10 gious, or dissenting views via the Internet, including
11 electronic mail.

12 “(2) In compiling data and making assessments for
13 the purposes of paragraph (1), United States diplomatic
14 mission personnel shall consult with human rights organi-
15 zations and other appropriate nongovernmental organiza-
16 tions.”.

17 **SEC. 104. OFFICE OF GLOBAL INTERNET FREEDOM.**

18 (a) **ESTABLISHMENT.**—There is established in the
19 Department of State the Office of Global Internet Free-
20 dom (in this section referred to as the “Office”).

21 (b) **DUTIES.**—In addition to such other responsibil-
22 ities as the President may assign, the Office shall—

23 (1) serve as the focal point for interagency ef-
24 forts to protect and promote freedom of electronic
25 information abroad;

1 (2) develop and implement a global strategy to
2 combat state-sponsored and state-directed Internet
3 jamming by authoritarian foreign governments, and
4 the intimidation and persecution by such govern-
5 ments of their citizens who use the Internet;

6 (3) provide assistance to the President in con-
7 nection with the annual designation of Internet-re-
8 stricting countries required by section 105(a) of this
9 Act;

10 (4) beginning not later than 180 days after the
11 date of the enactment of this Act—

12 (A) identify key words, terms, and phrases
13 relating to human rights, democracy, religious
14 free exercise, and peaceful political dissent, both
15 in general and as specifically related to the par-
16 ticular context and circumstances of each Inter-
17 net-restricting country, for purposes of compli-
18 ance by United States businesses with the re-
19 quirements of section 202 of this Act; and

20 (B) maintain, update, and make publicly
21 available on a regular basis the key words,
22 terms, and phrases identified pursuant to sub-
23 paragraph (A);

24 (5) establish mechanisms by which United
25 States businesses can transmit to the Office the in-

1 formation required to be reported by sections 203
2 and 205 of this Act;

3 (6) work with appropriate technology companies
4 involved in providing, maintaining, or servicing the
5 Internet, human rights organizations, academic ex-
6 perts, and others to develop a voluntary code of min-
7 imum corporate standards related to Internet free-
8 dom; and

9 (7) advise the appropriate congressional com-
10 mittees of legislative action that may be necessary to
11 keep the provisions of this Act and the amendments
12 made by this Act relevant to changing technologies.

13 (c) COOPERATION OF OTHER FEDERAL DEPART-
14 MENTS AND AGENCIES.—Each department and agency of
15 the Government of the United States, including the De-
16 partment of Commerce, the Office of the United States
17 Trade Representative, the Department of Justice, the
18 International Broadcasting Bureau, and the Office of the
19 Director of National Intelligence, shall—

20 (1) cooperate fully with, and assist in the imple-
21 mentation of, the duties of the Office described in
22 subsection (b), including the strategy developed by
23 the Office pursuant to paragraph (2) of subsection
24 (b); and

1 (2) STANDARD.—A foreign country shall be
2 designated as an Internet-restricting country if the
3 President determines that the government of the
4 country is directly or indirectly responsible for a sys-
5 tematic pattern of substantial restrictions on Inter-
6 net freedom during the preceding one-year period.

7 (3) INITIAL DESIGNEES.—

8 (A) IN GENERAL.—Each of the countries
9 specified in subparagraph (B) shall be deemed
10 to be designated as an Internet-restricting
11 country pursuant to paragraph (1) beginning
12 on the date of the enactment of this Act and
13 ending on the date on which the President cer-
14 tifies to the appropriate congressional commit-
15 tees that the country involved is no longer di-
16 rectly or indirectly responsible for a systematic
17 pattern of substantial restrictions on Internet
18 freedom.

19 (B) COUNTRIES.—The countries referred
20 to in subparagraph (A) are Burma, the People’s
21 Republic of China, Iran, North Korea, Tunisia,
22 Uzbekistan, and Vietnam.

23 (b) REPORT.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of the enactment of this Act, and an-

1 nually thereafter, the President shall transmit to the
2 appropriate congressional committees a report that
3 contains the following:

4 (A) The name of each foreign country that
5 at the time of the transmission of the report is
6 designated as an Internet-restricting country
7 pursuant to subsection (a).

8 (B) An identification of each government
9 agency and quasi-government organization re-
10 sponsible for the substantial restrictions on
11 Internet freedom in each foreign country des-
12 ignated as an Internet-restricting country pur-
13 suant to subsection (a).

14 (C) A description of efforts by the United
15 States to counter the substantial restrictions on
16 Internet freedom referred to in subparagraph
17 (B).

18 (2) FORM.—The information required by para-
19 graph (1)(C) of the report may be provided in a
20 classified form if necessary.

21 (3) INTERNET AVAILABILITY.—All unclassified
22 portions of the report shall be made publicly avail-
23 able on the Internet Web site of the Department of
24 State.

1 **TITLE II—MINIMUM CORPORATE**
2 **STANDARDS FOR ONLINE**
3 **FREEDOM**

4 **SEC. 201. PROTECTION OF SEARCH ENGINES AND CONTENT**
5 **SERVICES.**

6 Any United States business that creates, provides, or
7 hosts any Internet search engine or maintains an Internet
8 content hosting service may not locate, within a designated
9 Internet-restricting country, any computer hardware used
10 to house, store, serve, or maintain files or other data in-
11 volved in providing such search engine or content hosting
12 service.

13 **SEC. 202. INTEGRITY OF SEARCH ENGINES.**

14 Any United States business that creates, provides, or
15 hosts any Internet search engine may not alter the oper-
16 ation of such search engine with respect to protected filter
17 terms either—

18 (1) at the request of, or by reason of any other
19 direct or indirect communication by, of a foreign of-
20 ficial of an Internet-restricting country; or

21 (2) in a manner intended or likely to produce
22 different search engine results for users accessing
23 the search engine from within an Internet-restricting
24 country as compared to users elsewhere.

1 **SEC. 203. TRANSPARENCY REGARDING SEARCH ENGINE**
2 **FILTERING.**

3 Any United States business that creates, provides, or
4 hosts an Internet search engine shall provide the Office
5 of Global Internet Freedom, in a format and with a fre-
6 quency to be specified by the Office, with all terms and
7 parameters submitted, entered, or otherwise provided by
8 any foreign official of an Internet-restricting country, that
9 are used to filter, limit, or otherwise affect the results pro-
10 vided by the search engine when used by other users.

11 **SEC. 204. PROTECTION OF UNITED STATES-SUPPORTED ON-**
12 **LINE CONTENT.**

13 A United States business that maintains an Internet
14 content hosting service may not conduct Internet jamming
15 of a United States-supported website or United States-
16 supported content in an Internet restricting country.

17 **SEC. 205. TRANSPARENCY REGARDING INTERNET CENSOR-**
18 **SHIP.**

19 Any United States business that maintains an Inter-
20 net content hosting service shall provide the Office of
21 Global Internet Freedom, in a format and with a fre-
22 quency to be specified by the Office, with copies of all data
23 and content that such business has, at the request of, or
24 by reason of any other direct or indirect communication
25 by, any foreign official of an Internet-restricting
26 country—

1 (1) removed from the content hosting service of
2 such business;

3 (2) blocked from availability on the Internet; or

4 (3) blocked from transmission via the Internet
5 into or within an Internet-restricting country.

6 **SEC. 206. INTEGRITY OF USER IDENTIFYING INFORMATION.**

7 (a) **USER PROTECTION.**—Any United States business
8 that maintains an Internet content hosting service may
9 not provide to any foreign official of an Internet-restrict-
10 ing country information that personally identifies a par-
11 ticular user of such content hosting service, except for le-
12 gitimate foreign law enforcement purposes as determined
13 by the Department of Justice.

14 (b) **PRIVATE RIGHT OF ACTION.**—Any person ag-
15 grieved by a violation of this section may bring an action
16 for damages, including punitive damages, or other appro-
17 priate relief in the appropriate district court of the United
18 States, without regard to the amount in controversy, and
19 without regard to the citizenship of the parties.

20 **SEC. 207. PENALTIES.**

21 (a) **CIVIL PENALTIES.**—(1) Any United States busi-
22 ness or United States person that violates section 206(a)
23 shall be fined not more than \$2,000,000.

24 (2) Any United States business or United States per-
25 son that violates sections 201, 202, 203, 204 or 205 shall

1 be subject to a civil penalty of not more than \$10,000 im-
2 posed in an action brought by the Attorney General.

3 (b) CRIMINAL PENALTIES.—(1) Any United States
4 business that willfully violates, or willfully attempts to vio-
5 late section 206(a) shall be fined not more than
6 \$2,000,000, or if a natural person who is an officer, direc-
7 tor, employee, or agent of a United States business, or
8 stockholder acting on behalf of such United States busi-
9 ness, shall be fined not more than \$100,000, or impris-
10 oned not more than 5 years, or both.

11 (2) Any United States business that willfully violates,
12 or willfully attempts to violate section 201, 202, 203, 204
13 or 205 of this Act shall be fined not more than \$10,000,
14 or if a natural person who is an officer, director, employee,
15 or agent of a United States business, or stockholder acting
16 on behalf of such United States business, shall be fined
17 not more than \$10,000, or imprisoned not more than 1
18 year, or both.

19 (3) Whenever a fine is imposed under paragraph (2)
20 upon any officer, director, employee, agent, or stockholder
21 of a United States business, such fine may not be paid,
22 directly or indirectly, by such United States business.

1 **TITLE III—EXPORT CONTROLS**
2 **FOR INTERNET-RESTRICTING**
3 **COUNTRIES**

4 **SEC. 301. ESTABLISHMENT OF EXPORT CONTROLS.**

5 Not later than 90 days after the date of the enact-
6 ment of this Act, the Secretary of State, in consultation
7 with the Secretary of Commerce, shall promulgate regula-
8 tions to ensure the establishment of appropriate foreign
9 policy control and export license requirements before any
10 person subject to the jurisdiction of the United States may
11 knowingly export any item subject to sections 730 through
12 774 of title 15, Code of Federal Regulations (commonly
13 known as the “Export Administration Regulations”) to an
14 end user in an Internet-restricting country for the pur-
15 pose, in whole or in part, of facilitating Internet censor-
16 ship.

17 **SEC. 302. REPORT.**

18 Not later than 120 days after the date of the enact-
19 ment of this Act, the Secretary of State, in consultation
20 with the Secretary of Commerce, shall submit to the ap-
21 propriate congressional committees a report describing the
22 actions taken to implement the requirements of section
23 301 of this Act.

○

Mr. SMITH OF NEW JERSEY. The Clerk will report the amendment.

Ms. PLUMLEY. Amendment in the nature of a substitute to H.R. 4780, offered by Mr. Smith of New Jersey.

[The information referred to follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4780
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Global Online Freedom Act of 2006”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Severability.

TITLE I—PROMOTION OF GLOBAL INTERNET FREEDOM

- Sec. 101. Statement of policy.
- Sec. 102. Sense of congress.
- Sec. 103. Annual country reports on human rights practices.
- Sec. 104. Office of global internet freedom.
- Sec. 105. Annual designation of internet-restricting countries; report.

**TITLE II—MINIMUM CORPORATE STANDARDS FOR ONLINE
FREEDOM**

- Sec. 201. Protection of personally identifiable information.
- Sec. 202. Integrity of personally identifiable information.
- Sec. 203. Transparency regarding search engine filtering.
- Sec. 204. Transparency regarding internet censorship.
- Sec. 205. Protection of United States-supported online content.
- Sec. 206. Penalties.
- Sec. 207. Presidential waiver.

**TITLE III—EXPORT CONTROLS FOR INTERNET-RESTRICTING
COUNTRIES**

- Sec. 301. Feasibility study on establishment of export controls.
- Sec. 302. Report.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Freedom of speech and freedom of the press
4 are fundamental human rights, and free flow of in-
5 formation on the Internet is protected in Article 19
6 of the Universal Declaration of Human Rights,
7 which guarantees freedom to “receive and impart in-
8 formation and ideas through any media regardless of
9 frontiers”.

10 (2) The Internet has been a success because it
11 quickly provides information to its more than
12 972,000,000 users globally.

13 (3) The growth of the Internet and other infor-
14 mation technologies can be a force for democratic
15 change if the information is not subject to political
16 censorship.

17 (4) The Internet has played a role in bringing
18 international attention to issues the discussion of
19 which are forbidden by authoritarian foreign govern-
20 ments, such as attempts by the Government of the
21 People’s Republic of China to suppress news of the
22 severe acute respiratory syndrome (SARS) outbreak
23 in 2004.

24 (5) The rapid provision of full and uncensored
25 information through the Internet has become a

1 major industry of the United States, and one of its
2 major exports.

3 (6) Political censorship of the Internet degrades
4 the quality of that service and ultimately threatens
5 the integrity and viability of the industry itself, both
6 in the United States and abroad.

7 (7) Authoritarian foreign governments such as
8 the Governments of Belarus, Cuba, Ethiopia, Iran,
9 Laos, North Korea, the People's Republic of China,
10 Tunisia, and Vietnam block, restrict, and monitor
11 the information their citizens try to obtain.

12 (8) Web sites that provide uncensored news and
13 information, such as the Web sites of the Voice of
14 America and Radio Free Asia, are routinely blocked
15 in such countries.

16 (9) In June 2003, the Government of the So-
17 cialist Republic of Vietnam arrested, convicted of
18 "spying", and sentenced to 13 years imprisonment
19 and 3 years house arrest (later reduced on appeal to
20 5 years imprisonment and 3 years house arrest) Dr.
21 Pham Hong Son after he translated an Internet ar-
22 ticle titled "What is Democracy" from the Web site
23 of the United States Embassy in Vietnam.

24 (10) According to the Department of State's
25 Country Reports on Human Rights Practices, the

1 Government of Vietnam in 2004 tightened control of
2 the Internet, requiring Internet agents, such as
3 cyber cafes, to register the personal information of
4 their customers and store records of Internet sites
5 visited by customers. The Vietnamese Government
6 also monitored electronic mail, searched for sensitive
7 key words, and regulated Internet content.

8 (11) The Government of the People's Republic
9 of China has employed censorship of the Internet in
10 violation of Article 35 of the Chinese Constitution,
11 which guarantees freedom of speech, freedom of the
12 press, freedom of assembly, freedom of association,
13 freedom of procession, and freedom of demonstra-
14 tion.

15 (12) This censorship by the Chinese Govern-
16 ment promotes, perpetuates, and exacerbates a
17 xenophobic—and at times particularly anti-Amer-
18 ican—Chinese nationalism, the long-term effect of
19 which will be deleterious to United States efforts to
20 prevent the relationship between the United States
21 and China from becoming hostile.

22 (13) Technology companies in the United
23 States that operate in countries controlled by au-
24 thoritarian foreign governments have a moral re-

1 sponsibility to comply with the principles of the Uni-
2 versal Declaration of Human Rights.

3 (14) Technology companies in the United
4 States have succumbed to pressure by authoritarian
5 foreign governments to provide such governments
6 with information about Internet users that has led
7 to the arrest and imprisonment of cyber dissidents,
8 in violation of the corporate responsibility of such
9 companies to protect and uphold human rights.

10 (15) Technology companies in the United
11 States have provided technology and training to au-
12 thoritarian foreign governments which have been
13 used by such governments in filtering and blocking
14 information that promotes democracy and freedom.

15 (16) Technology companies in the United
16 States should develop standards by which they can
17 conduct business with authoritarian foreign govern-
18 ments while protecting human rights to freedom of
19 speech and freedom of expression.

20 (17) The United States supports the universal
21 right to freedom of speech and freedom of the press.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24 (1) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—Except as otherwise provided in this Act, the

1 term “appropriate congressional committees”
2 means—

3 (A) the Committee on International Rela-
4 tions of the House of Representatives; and

5 (B) the Committee on Foreign Relations of
6 the Senate.

7 (2) FOREIGN OFFICIAL.—

8 (A) IN GENERAL.—The term “foreign offi-
9 cial” means—

10 (i) any officer or employee of a for-
11 eign government or any department, agen-
12 cy, state-owned enterprise, or instrumen-
13 tality thereof; or

14 (ii) any person acting in an official ca-
15 pacity for or on behalf of any such govern-
16 ment or department, agency, state-owned
17 enterprise, or instrumentality.

18 (B) STATE-OWNED ENTERPRISE.—For
19 purposes of subparagraph (A), the term “state-
20 owned enterprise” means a commercial entity in
21 which a foreign government owns, directly or
22 indirectly, more than 50 percent of the out-
23 standing capital stock or other beneficial inter-
24 est in such commercial entity.

1 (3) INTERNET.—The term “Internet” means
2 the combination of computer facilities, telecommuni-
3 cations facilities, electromagnetic transmission
4 media, and related equipment and software, com-
5 prising the interconnected worldwide network of
6 computer networks that employ the Transmission
7 Control Protocol/Internet Protocol or any successor
8 protocol to transmit information.

9 (4) INTERNET CONTENT HOSTING SERVICE.—
10 The terms “Internet content hosting service” and
11 “content hosting service” mean a service that—

12 (A) stores, through electromagnetic or
13 other means, electronic data, including the con-
14 tent of Web pages, electronic mail, documents,
15 images, audio and video files, online discussion
16 boards, and Web logs; and

17 (B) makes such data available via the
18 Internet.

19 (5) INTERNET JAMMING.—The term “Internet
20 jamming” means jamming, censoring, blocking,
21 monitoring, or restricting access to the Internet, or
22 to content made available via the Internet, by using
23 technologies such as firewalls, filters, and “black
24 boxes”.

1 (6) INTERNET-RESTRICTING COUNTRY.—The
2 term “Internet-restricting country” means a country
3 designated by the President pursuant to section
4 105(a) of this Act.

5 (7) INTERNET SEARCH ENGINE.—The term
6 “Internet search engine” or “search engine” means
7 a service made available via the Internet that, on the
8 basis of query consisting of terms, concepts, ques-
9 tions, or other data input by a user, searches infor-
10 mation available on the Internet and returns to the
11 user a means, such as a hyperlinked list of Uniform
12 Resource Identifiers, of locating, viewing, or
13 downloading information or data available on the
14 Internet relating to that query.

15 (8) LEGITIMATE FOREIGN LAW ENFORCEMENT
16 PURPOSES.—

17 (A) IN GENERAL.—The term “legitimate
18 foreign law enforcement purposes” means for
19 purposes of enforcement, investigation, or pros-
20 ecution by a foreign official based on a publicly
21 promulgated law of reasonable specificity that
22 proximately relates to the protection or pro-
23 motion of the health, safety, or morals of the
24 citizens of that jurisdiction.

1 (B) RULE OF CONSTRUCTION.—For pur-
2 poses of this Act, the control, suppression, or
3 punishment of peaceful expression of political or
4 religious opinion, which is protected by Article
5 19 of the International Covenant on Civil and
6 Political Rights, does not constitute a legitimate
7 foreign law enforcement purpose.

8 (9) PERSONALLY IDENTIFIABLE INFORMA-
9 TION.—The term “personally identifiable
10 information”—

11 (A) includes any information described in
12 section 2703(e)(2) of title 18, United States
13 Code; and

14 (B) does not include—

15 (i) any traffic data (as such term is
16 defined in section 201(b) of this Act; or

17 (ii) any record of aggregate data that
18 does not identify particular persons.

19 (10) SUBSTANTIAL RESTRICTIONS ON INTER-
20 NET FREEDOM.—The term “substantial restrictions
21 on Internet freedom” means actions that restrict or
22 punish the free availability of information via the
23 Internet for reasons other than legitimate foreign
24 law enforcement purposes, including—

1 (A) deliberately blocking, filtering, or cen-
2 soring information available via the Internet
3 based on its peaceful political or religious con-
4 tent; or

5 (B) persecuting, prosecuting, or otherwise
6 punishing an individual or group for posting or
7 transmitting peaceful political or religious opin-
8 ions via the Internet, including by electronic
9 mail.

10 (11) UNITED STATES BUSINESS.—The term
11 “United States business” means—

12 (A) any corporation, partnership, associa-
13 tion, joint-stock company, business trust, unin-
14 corporated organization, or sole proprietorship
15 that—

16 (i) has its principal place of business
17 in the United States; or

18 (ii) is organized under the laws of a
19 State of the United States or a territory,
20 possession, or commonwealth of the United
21 States;

22 (B) any issuer of a security registered pur-
23 suant to section 12 of the Securities Exchange
24 Act of 1934 (15 U.S.C. 78l); and

1 (C) any foreign subsidiary of an entity de-
2 scribed in subparagraph (A) or (B) to the ex-
3 tent such entity—

4 (i) controls the voting shares or other
5 equities of the foreign subsidiary; or

6 (ii) authorizes, directs, controls, or
7 participates in acts carried out by the for-
8 eign subsidiary that are prohibited by this
9 Act.

10 (12) UNITED STATES-SUPPORTED CONTENT.—
11 The term “United States-supported content” means
12 content that is created or developed, in whole or in
13 part, by a United States-supported information enti-
14 ty.

15 (13) UNITED STATES-SUPPORTED INFORMA-
16 TION ENTITY.—The term “United States-supported
17 information entity” means—

18 (A) any authority of the Government of
19 the United States; and

20 (B) any entity that—

21 (i) receives grants from the Broad-
22 casting Board of Governors to carry out
23 international broadcasting activities in ac-
24 cordance with the United States Inter-
25 national Broadcasting Act of 1994 (title

1 III of Public Law 103–236; 22 U.S.C.
2 6201 et seq.);

3 (ii) in coordination with the Inter-
4 national Broadcasting Bureau, carries out
5 all nonmilitary international broadcasting
6 activities supported by the Government of
7 the United States in accordance with such
8 Act (other than the international broad-
9 casting activities supported by the Broad-
10 casting Board of Governors as specified in
11 such Act); or

12 (iii) receives grants or other similar
13 funding from the Government of the
14 United States to carry out any information
15 dissemination activities.

16 (14) UNITED STATES-SUPPORTED WEB SITE.—

17 The term “United States-supported Web site”
18 means a location on the World Wide Web that is
19 owned or managed by, or is registered to, a United
20 States-supported information entity.

21 **SEC. 4. SEVERABILITY.**

22 If any provision of this Act, or the application of such
23 provision to any person or circumstance, is held invalid,
24 the remainder of this Act, and the application of such pro-

1 vision to other persons not similarly situated or to other
2 circumstances, shall not be affected by such invalidation.

3 **TITLE I—PROMOTION OF**
4 **GLOBAL INTERNET FREEDOM**

5 **SEC. 101. STATEMENT OF POLICY.**

6 It shall be the policy of the United States—

7 (1) to promote as a fundamental component of
8 United States foreign policy the right of everyone to
9 freedom of opinion and expression, including the
10 freedom to hold opinions without interference and to
11 seek, receive, and impart information and ideas
12 through any media and regardless of frontiers;

13 (2) to use all appropriate instruments of United
14 States influence, including diplomacy, trade policy,
15 and export controls, to support, promote, and
16 strengthen principles, practices, and values that pro-
17 mote the free flow of information, including through
18 the Internet and other electronic media; and

19 (3) to deter any United States business from
20 cooperating with officials of Internet-restricting
21 countries in effecting the political censorship of on-
22 line content.

23 **SEC. 102. SENSE OF CONGRESS.**

24 It is the sense of Congress that—

1 (1) the President should through bilateral, and
2 where appropriate, multilateral activities, seek to ob-
3 tain the agreement of other countries to promote the
4 goals and objectives of this Act and to protect Inter-
5 net freedom; and

6 (2) to the extent that a United States business
7 empowers or assists an authoritarian foreign govern-
8 ment in its efforts to restrict online access to the
9 Web sites of Radio Free Asia, the Voice of America,
10 or other United States-supported Web sites and on-
11 line access to United States Government reports
12 such as the Annual Country Reports on Human
13 Rights Practices, the Annual Reports on Inter-
14 national Religious Freedom, and the Annual Traf-
15 ficking in Human Persons Reports, that business is
16 working contrary to the foreign policy interests of
17 the United States, and is undercutting United
18 States taxpayer-funded efforts to promote freedom
19 of information for all people, including those in un-
20 democratic and repressive societies.

21 **SEC. 103. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
22 **PRACTICES.**

23 (a) REPORT RELATING TO ECONOMIC ASSIST-
24 ANCE.—Section 116 of the Foreign Assistance Act of

1 1961 (22 U.S.C. 2151n) is amended by adding at the end
2 the following new subsection:

3 “(g)(1) The report required by subsection (d) shall
4 include an assessment of the freedom of electronic infor-
5 mation in each foreign country. Such assessment shall in-
6 clude the following:

7 “(A) An assessment of the general extent to
8 which Internet access is available to and used by
9 citizens in that country.

10 “(B) An assessment of the extent to which gov-
11 ernment authorities in that country attempt to filter,
12 censor, or otherwise block Internet content, as well
13 as a description of the means by which they attempt
14 to block such content.

15 “(C) A description of known instances in which
16 government authorities in that country have per-
17 secuted, prosecuted, or otherwise punished a person
18 or group for the peaceful expression of political, reli-
19 gious, or dissenting views via the Internet, including
20 electronic mail.

21 “(2) In compiling data and making assessments for
22 the purposes of paragraph (1), United States diplomatic
23 mission personnel shall consult with human rights organi-
24 zations and other appropriate nongovernmental organiza-
25 tions.”.

1 (b) REPORT RELATING TO SECURITY ASSISTANCE.—
2 Section 502B of the Foreign Assistance Act of 1961 (22
3 U.S.C. 2304) is amended by adding at the end the fol-
4 lowing new subsection:

5 “(i)(1) The report required by subsection (b) shall in-
6 clude an assessment of the freedom of electronic informa-
7 tion in each foreign country. Such assessment shall in-
8 clude the following:

9 “(A) An assessment of the general extent of
10 which Internet access is available to and used by
11 citizens in that country.

12 “(B) An assessment of the extent to which govern-
13 ment authorities in that country attempt to filter,
14 censor, or otherwise block Internet content, as well
15 as a description of the means by which they attempt
16 to block such content.

17 “(C) A description of known instances in which
18 government authorities in that country have per-
19 secuted, prosecuted, or otherwise punished a person
20 or group for the peaceful expression of political, reli-
21 gious, or dissenting views via the Internet, including
22 electronic mail.

23 “(2) In compiling data and making assessments for
24 the purposes of paragraph (1), United States diplomatic
25 mission personnel shall consult with human rights organi-

1 zations and other appropriate nongovernmental organiza-
2 tions.”.

3 **SEC. 104. OFFICE OF GLOBAL INTERNET FREEDOM.**

4 (a) ESTABLISHMENT.—There is established in the
5 Department of State the Office of Global Internet Free-
6 dom (in this section referred to as the “Office”).

7 (b) DUTIES.—In addition to such other responsibil-
8 ities as the President may assign, the Office shall—

9 (1) serve as the focal point for interagency ef-
10 forts to protect and promote freedom of electronic
11 information abroad;

12 (2) develop and ensure the implementation of a
13 global strategy and programs to combat state-spon-
14 sored and state-directed Internet jamming by au-
15 thoritarian foreign governments, and the intimidat-
16 ion and persecution by such governments of their
17 citizens who use the Internet;

18 (3) provide assistance to the President in con-
19 nection with the annual designation of Internet-re-
20 stricting countries required by section 105(a) of this
21 Act;

22 (4) beginning not later than 180 days after the
23 date of the enactment of this Act—

24 (A) identify key words, terms, and phrases
25 relating to human rights, democracy, religious

1 free exercise, and peaceful political dissent, both
2 in general and as specifically related to the par-
3 ticular context and circumstances of each Inter-
4 net-restricting country; and

5 (B) maintain, update, and make publicly
6 available on a regular basis the key words,
7 terms, and phrases identified pursuant to sub-
8 paragraph (A);

9 (5) establish mechanisms by which United
10 States businesses can transmit to the Office the in-
11 formation required to be reported by sections 203
12 and 204 of this Act;

13 (6) establish a regularized consultative process
14 with appropriate technology companies involved in
15 providing, maintaining, or servicing the Internet,
16 human rights organizations, academic experts, and
17 others to develop a voluntary code of minimum cor-
18 porate standards related to Internet freedom, and to
19 consult with such companies, organizations, experts,
20 and others regarding new technologies and the im-
21 plementation of appropriate policies relating to such
22 technologies; and

23 (7) advise the appropriate congressional com-
24 mittees of legislative action that may be necessary to

1 keep the provisions of this Act and the amendments
2 made by this Act relevant to changing technologies.

3 (c) COOPERATION OF OTHER FEDERAL DEPART-
4 MENTS AND AGENCIES.—Each department and agency of
5 the Government of the United States, including the De-
6 partment of Commerce, the Office of the United States
7 Trade Representative, the Department of Justice, the
8 International Broadcasting Bureau, and the Office of the
9 Director of National Intelligence, shall—

10 (1) cooperate fully with, and assist in the imple-
11 mentation of, the duties of the Office described in
12 subsection (b), including the strategy developed by
13 the Office pursuant to paragraph (2) of subsection
14 (b); and

15 (2) make such resources and information avail-
16 able to the Office on a nonreimbursable basis as is
17 necessary to achieve the purposes of this Act and the
18 amendments made by this Act.

19 (d) DEFINITION.—In this section, the term “appro-
20 priate congressional committees” means—

21 (1) the Committee on International Relations
22 and the Committee on Energy and Commerce of the
23 House of Representatives; and

1 (2) the Committee on Foreign Relations and
2 the Committee on Commerce, Science, and Trans-
3 portation of the Senate.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Office to carry
6 out this section \$50,000,000 for each of the fiscal years
7 2007 and 2008.

8 **SEC. 105. ANNUAL DESIGNATION OF INTERNET-RESTRICT-**
9 **ING COUNTRIES; REPORT.**

10 (a) DESIGNATION.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of the enactment of this Act, and an-
13 nually thereafter, the President shall designate
14 Internet-restricting countries for purposes of this
15 Act.

16 (2) STANDARD.—A foreign country shall be
17 designated as an Internet-restricting country if the
18 President determines that the government of the
19 country is directly or indirectly responsible for a sys-
20 tematic pattern of substantial restrictions on Inter-
21 net freedom during the preceding 1-year period.

22 (3) INITIAL DESIGNEES.—

23 (A) IN GENERAL.—Each of the countries
24 specified in subparagraph (B) shall be deemed
25 to be designated as an Internet-restricting

1 country pursuant to paragraph (1) beginning
2 on the date of the enactment of this Act and
3 ending on the date on which the President cer-
4 tifies to the appropriate congressional commit-
5 tees that the country involved is no longer di-
6 rectly or indirectly responsible for a systematic
7 pattern of substantial restrictions on Internet
8 freedom.

9 (B) COUNTRIES.—The countries referred
10 to in subparagraph (A) are Belarus, Cuba,
11 Ethiopia, Iran, Laos, North Korea, the People’s
12 Republic of China, Tunisia, and Vietnam.

13 (b) REPORT.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of the enactment of this Act, and an-
16 nually thereafter, the President shall transmit to the
17 appropriate congressional committees a report that
18 contains the following:

19 (A) The name of each foreign country that
20 at the time of the transmission of the report is
21 designated as an Internet-restricting country
22 pursuant to subsection (a).

23 (B) An identification of each government
24 agency and quasi-government organization re-
25 sponsible for the substantial restrictions on

1 Internet freedom in each foreign country des-
2 ignated as an Internet-restricting country pur-
3 suant to subsection (a).

4 (C) A description of efforts by the United
5 States to counter the substantial restrictions on
6 Internet freedom referred to in subparagraph
7 (B).

8 (2) FORM.—The information required by para-
9 graph (1)(C) of the report may be provided in a
10 classified form if necessary.

11 (3) INTERNET AVAILABILITY.—All unclassified
12 portions of the report shall be made publicly avail-
13 able on the Internet Web site of the Department of
14 State.

15 **TITLE II—MINIMUM CORPORATE**
16 **STANDARDS FOR ONLINE**
17 **FREEDOM**

18 **SEC. 201. PROTECTION OF PERSONALLY IDENTIFIABLE IN-**
19 **FORMATION.**

20 (a) PROHIBITION OF LOCATING PERSONALLY IDEN-
21 TIFIABLE INFORMATION IN INTERNET-RESTRICTING
22 COUNTRIES.—A United States business may not locate,
23 within a designated Internet-restricting country, any elec-
24 tronic communication that contains any personally identi-
25 fiable information.

1 (b) DEFINITIONS.—In this section:

2 (1) TITLE 18 DEFINITIONS.—The terms “elec-
3 tronic communication”, “electronic communications
4 system”, “electronic storage”, and “contents” have
5 the meanings given such terms in section 2510 of
6 title 18, United States Code.

7 (2) LOCATE.—The term “locate” includes, with
8 respect to an electronic communication—

9 (A) computer storage or processing by fa-
10 cilities of a remote computing service, as such
11 term is defined in section 2711 of title 18,
12 United States Code;

13 (B) electronic storage by any electronic or
14 computer server or facility of an electronic com-
15 munications system; and

16 (C) any other storage by any electronic or
17 computer server or facility.

18 (3) TRAFFIC DATA.—The term “traffic data”
19 means, with respect to an electronic communication,
20 any information contained in or relating to such
21 communication that is processed for the purpose of
22 the conveyance of the communication by an elec-
23 tronic communications system or for the billing
24 thereof, including any Internet Protocol address or
25 other means of identifying a location within an elec-

1 **SEC. 203. TRANSPARENCY REGARDING SEARCH ENGINE**
2 **FILTERING.**

3 Any United States business that creates, provides, or
4 hosts an Internet search engine shall provide the Office
5 of Global Internet Freedom, in a format and with a fre-
6 quency to be specified by the Office, with all terms and
7 parameters used to filter, limit, or otherwise affect the re-
8 sults provided by the search engine that are
9 implemented—

10 (1) at the request of, or by reason of any other
11 direct or indirect communication by, any foreign of-
12 ficial of an Internet-restricting country; or

13 (2) to comply with a policy or practice of re-
14 strictions on Internet freedom in an Internet-re-
15 stricting country.

16 **SEC. 204. TRANSPARENCY REGARDING INTERNET CENSOR-**
17 **SHIP.**

18 (a) PROVISION OF URLS.—Any United States busi-
19 ness that maintains an Internet content hosting service
20 shall provide the Office of Global Internet Freedom, in a
21 format and with a frequency to be specified by the Office,
22 with the Uniform Resource Locators (URLs) of all data
23 and content that such business has, under the cir-
24 cumstances set forth in subsection (b)—

25 (1) removed from the content hosting service of
26 such business;

1 (2) blocked from availability on the Internet; or

2 (3) blocked from transmission via the Internet
3 into or within an Internet-restricting country.

4 (b) CIRCUMSTANCES.—The circumstances referred to
5 in subsection (a) are that the United States business took
6 the action under subsection (a)—

7 (1) at the request of, or by reason of any other
8 direct or indirect communication by, any foreign of-
9 ficial of an Internet-restricting country; or

10 (2) in order to comply with a policy or practice
11 of restrictions on Internet freedom in an Internet-re-
12 stricting country.

13 **SEC. 205. PROTECTION OF UNITED STATES-SUPPORTED ON-**
14 **LINE CONTENT.**

15 A United States business that maintains an Internet
16 content hosting service may not conduct Internet jamming
17 of a United States-supported Web site or United States-
18 supported content in an Internet-restricting country.

19 **SEC. 206. PENALTIES.**

20 (a) CIVIL PENALTIES.—(1)(A) Any United States
21 business that violates section 202(a) shall be subject to
22 a civil penalty of not more than \$2,000,000 imposed in
23 an action brought by the Attorney General.

24 (B) Any officer, director, employee, or agent, or
25 stockholder of a United States business, who is acting on

1 behalf of that business concern and who violates section
2 202(a), shall be subject to a civil penalty of not more
3 \$100,000 imposed in an action brought by the Attorney
4 General.

5 (2) Any United States business that violates section
6 201, 203, 204, or 205, or any officer, director, employee,
7 or agent, or stockholder of a United States business, who
8 is acting on behalf of that business concern and who vio-
9 lates section 201, 203, 204, or 205, shall be subject to
10 a civil penalty of not more than \$10,000 imposed in an
11 action brought by the Attorney General.

12 (b) CRIMINAL PENALTIES.—(1)(A) Any United
13 States business that willfully violates, or willfully attempts
14 to violate, section 202(a) shall be fined not more than
15 \$2,000,000.

16 (B) Any officer, director, employee, or agent, or
17 stockholder of a United States business, who is acting on
18 behalf of that business concern, and who willfully violates,
19 or willfully attempts to violate, section 202(a), shall be
20 fined not more than \$100,000, or imprisoned not more
21 than 5 years, or both.

22 (2)(A) Any United States business that willfully vio-
23 lates, or willfully attempts to violate, section 201, 203,
24 204, or 205 shall be fined not more than \$10,000.

1 (B) Any officer, director, employee, or agent, or
2 stockholder of a United States business, who is acting on
3 behalf of that business concern and who willfully violates,
4 or willfully attempts to violate, section 201, 203, 204, or
5 205, shall be fined not more than \$10,000, or imprisoned
6 not more than 1 year, or both.

7 (c) PAYMENT OF FINES.—Whenever a fine is im-
8 posed under subsection (a) or (b) upon any officer, direc-
9 tor, employee, agent, or stockholder of a United States
10 business, the fine may not be paid, directly or indirectly,
11 by the United States business.

12 **SEC. 207. PRESIDENTIAL WAIVER.**

13 (a) IN GENERAL.—Subject to subsection (b), the
14 President may waive the application of any of provisions
15 of sections 201 through 205 with respect to a United
16 States business or an Internet-restricting country, if the
17 President determines and so reports to the appropriate
18 congressional committees that—

19 (1) the government of the country has ceased
20 the activities giving rise to the designation of the
21 country as an Internet-restricting country;

22 (2) the exercise of such waiver authority would
23 further the purposes of this Act; or

1 (3) the important national interest of the
2 United States requires the exercise of such waiver
3 authority.

4 (b) CONGRESSIONAL NOTIFICATION.—Not later than
5 the date of the exercise of a waiver under subsection (a),
6 the President shall notify the appropriate congressional
7 committees of the waiver or the intention to exercise the
8 waiver, together with a detailed justification for the waiv-
9 er.

10 **TITLE III—EXPORT CONTROLS**
11 **FOR INTERNET-RESTRICTING**
12 **COUNTRIES**

13 **SEC. 301. FEASIBILITY STUDY ON ESTABLISHMENT OF EX-**
14 **PORT CONTROLS.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, the Secretary of Commerce, in consulta-
17 tion with the Secretary of State, shall complete a feasi-
18 bility study regarding the development of export license
19 requirements regarding the export of any item subject to
20 sections 730 through 774 of title 15, Code of Federal Reg-
21 ulations (commonly known as the “Export Administration
22 Regulations”) to an end user in an Internet-restricting
23 country for the purpose, in whole or in part, of facilitating
24 substantial restrictions on Internet freedom.

1 **SEC. 302. REPORT.**

2 Not later than 30 days after the end of the 180-day
3 period described in section 301, the Secretary of Com-
4 merce, in consultation with the Secretary of State, shall
5 submit to the appropriate congressional committees a re-
6 port describing the actions taken to carry out section 301.

Mr. SMITH OF NEW JERSEY. Without objection, the amendment is considered as read. And any amendments offered thereto would be to that text, I would point out to my colleagues.

You have in front of you a summary of H.R. 4780, but I will highlight some of the key provisions.

And again, this legislation, which we have been working on for several months, grew out of an ongoing concern about not just China, but—especially China, but other Internet-restricting countries. And as my colleagues will recall, we held a considerable hearing in this Committee room several months ago; I think it was about a 7½-hour hearing.

We heard from the Administration, we heard from human rights organizations, including Reporters Without Borders; and we also heard from four of the Internet giants who provided us testimony and, frankly, were held to account, I think, for some of the actions that they are taking in Internet-restricting countries.

This legislation is comprehensive. It establishes the promotion of free access to information through the Internet and recognizes it as a fundamental component of U.S. policy. It requires the President to submit to Congress an annual report designating as an Internet-restricting country any nation whose government authorities systematically and substantially restrict Internet freedom.

It creates an Office of Global Internet Freedom in the State Department, not unlike what we did with trafficking, or in the area of religious freedom, as well as in the anti-Semitism area, that would develop and implement a global strategy to combat state-sponsored Internet jamming by repressive foreign governments and to work with Internet companies and the private and nonprofit sectors to develop a voluntary code of minimum corporate standards related to Internet freedom.

The legislation would prohibit U.S. companies from disclosing to foreign officials of Internet-restricting countries information personally identifying a particular user, except for legitimate law enforcement purposes as determined by the U.S. Department of Justice.

With regards to filtering and censorship disclosure, it requires U.S. Internet service providers to disclose to the Office of Global Internet Freedom the terms and parameters that are used to filter or alter search engine results and the uniform resource locators, or URLs, of all data and content that they have removed or blocked in order to comply with the censorship policies of an Internet-restricting country.

Very importantly, we also provide that there be no censoring of U.S. Government sites, which is routine whether it be the religious freedom report or the report on trafficking or country reports on human rights practices. Notoriously, in places like China, that is excised out of what is available to their Internet users, so we would block that. It establishes a civil and criminal penalty regime similar to the Foreign Corrupt Practices Act for violations of these standards.

And that basically outlines the bill which we can go into in further detail if you would like. Would anyone else—Mr. Payne would you like to be heard?

Mr. PAYNE. I will just be very brief.

We did have a very long hearing. It is something that has a lot of concern, and I do believe that we need to move in an affirmative way to try to ensure that the Internet is free. I understand there may be some amendments, and if so, I would like to wait to hear what those amendments are.

Mr. SMITH OF NEW JERSEY. Okay. And let me just say, I am very grateful, Mr. Payne, for your cosponsorship and that of many Members of our Subcommittee and Full Committee.

Would anyone else like to be heard?

If not, the amendment in the nature of a substitute is open for amendment.

Mr. Blumenauer, do you have an amendment?

Mr. BLUMENAUER. Yes, Mr. Chairman. First of all, as I understand it, you have changed the requirement for export controls that would be implemented within 90 days to a 180-day feasibility study by the Department of Commerce.

Mr. SMITH OF NEW JERSEY. The gentleman is correct.

Mr. BLUMENAUER. Let me say I appreciate movement in that direction. One of the things that our Full Committee needs to spend some time on is a seriously broken export control system. I think the evidence is that it is counterproductive for American, not just American business, but I think we can demonstrate that it ends up boomeranging in terms of our own defense interests, because it drives people away from America and to develop their own capacity and to deal with people who are not necessarily friendly to the United States.

So I would like to express my appreciation for making the change on that.

I did not realize that until I sat down that you had changed the text, it wasn't in the version that we had. So because I was prepared to offer an amendment to strike Title III, and I would like to think it through—but let me share my reservation with you, if I may, to have yet another study that the Department of Commerce does.

These people are extraordinarily strained right now. Their capacity to turn around, to deal with legitimate concerns of our constituents, businesses that are dealing with the myriad requirements of export controls right now gives me pause, because I think, frankly, that that is something that has been undercut in terms of the ability of the Department of Commerce to respond.

I think any of you who talk to high-tech interests in your districts would find that they have some problems. And I suspect, although I haven't yet had this conversation specifically with the Department of Commerce, there is a question about their ability to comply.

But let me say, I really appreciate its being a feasibility study so that we have a better approach. I won't do anything at this point; I would like to think about it. But I do think that it is wise for us to go into this very carefully.

Mr. Chairman, I do however, have an amendment that I would offer up, with your permission.

Mr. SMITH OF NEW JERSEY. The Clerk will report the Blumenauer amendment.

Ms. PLUMLEY. Amendment to the amendment in the nature of a substitute to H.R. 4780 offered by Mr. Blumenauer of Oregon.
[The information referred to follows:]

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 4780
OFFERED BY MR. BLUMENAUER OF OREGON**

Strike section 201 and redesignate succeeding sections accordingly.

Page 26, line 21, strike “202(a)” and insert “201(a)”.

Page 26, line 24, strike “201, 203, 204, or 205” and insert “202, 203, or 204”.

Page 27, line 5, strike “202(a)” and insert “201(a)”.

Page 27, lines 12 and 13, strike “201, 203, 204, or 205” and insert “202, 203, or 204”.

Page 28, line 1, strike “205” and insert “204”.

Mr. SMITH OF NEW JERSEY. I ask unanimous consent the amendment be considered as read and the gentleman is recognized for 5 minutes.

Mr. BLUMENAUER. Thank you. Thank you, Mr. Chairman. This amendment deals with section 201, and I appreciate the focus that the Chair has had. The fact that we as a Committee have had an opportunity to be exposed to a wide variety of opinions and you move forward with dispatch. I commend you for that. I appreciate it is the way that it has been handled.

But I do want to express reservations about section 201, which, as you mentioned in your summary, would prohibit the United States technology companies from locating personally identifiable information in an Internet-restricting country. These companies, in their efforts to adopt industry standards to protect users, are discussing various approaches to reducing the risk of personally identifiable information being accessed and potentially abused by the authorities. And I think you, Mr. Chairman, and the Members of this Committee are a part of that, that has moved the industry to be more reflective and thoughtful, spurring them along.

But I wonder if, at this point, it is appropriate to have such a categorical prohibition that is contained in 201, in part because it would be a huge competitive disadvantage for most Internet service providers. It, frankly, in addition, may well mean that U.S. companies would be prohibited from doing business in a number of countries who require that personally identifiable information be available within the jurisdiction where the services are provided for law enforcement purposes, just as American law enforcement often gets warrants for personal information from Internet service providers.

I also understand—and I am going here beyond my technological capacity, but some of the certified smart people who work with me and those in the industry and those with interest groups lead us to believe that the prohibition of locating servers or storage facilities with personal identifiable information in Internet-restricting countries would, in effect, be a prohibition on locating all servers or storage facilities in such countries because of the way the Internet operates.

By keeping the United States Internet companies out of these Internet countries, we would actually increase the ability of these countries, and I think we ought to consider this very carefully. We would increase the ability of these countries to actually control the Internet as it would limit the spread of the Internet and keep American companies that I think, in part, as I said, because of what this Subcommittee has started, to sort of think of ways that they can accomplish the objectives that we have offered up to them.

It would thus limit the spread of the Internet and keep the companies who are grappling with these difficult issues—we have their attention, we are working with them, and, frankly, it would be to the benefit of companies around the world who are less concerned with human rights.

Now, I believe we need a tough strategy to deal with the issue of Internet freedom. But I would prefer that that be through bilateral and multilateral challenges that treat it more as a diplomatic issue and a barrier to trade.

Placing heavy restrictions on United States companies may be the simplest approach to take, and I know, after hearing some of the stories, it would make me feel better; but I am not certain that we would be doing what we should to deal with this very troubling issue and advance the cause of Internet freedom and, at the same time, potentially set back American competitiveness.

I respect the deep concerns that the Committee Members have expressed. I appreciate, Mr. Chairman, that you have been moving this forward; but I with all due respect, I suggest that section 201 may well have unintended consequences.

The final point I would make—and I appreciate your referencing Reporters Without Borders' report, because we have had them in and they provide some great information. But I would urge my colleagues, before we are finally adopting something here, to take a hard look at the list of countries that this includes. It is not just China; it is not just a few that are mentioned in the findings portion of this legislation. There are referenced in their 2006 report—by my count, there are a couple dozen countries, including some issues that relate to the European Union that—I think we are getting a little further along here than we recognize, and it could foreclose a pretty broad sweep of American activity around the world for negligible results.

I appreciate the courtesy and the time in offering this amendment, and I would respectfully request that my fellow Members of the Subcommittee considering approving it.

Thank you.

Mr. SMITH OF NEW JERSEY. Thank you.

I do rise in opposition to the gentleman's amendment, and I do so with respect. And I appreciate his comments a moment ago, but let me make a couple of points.

The operative language that would be struck is very simple and it reads as such:

“A prohibition of locating personally identifiable information in Internet-restricting countries. A United States business may not locate within a designated Internet-restricting country any electronic communication that contains any personally identifiable information.”

Section 201, which that is, protects those United States Internet companies that are doing right in China and are not locating personally identifiable information in China. And that would include Microsoft; that would include Google. It would not include Yahoo.

You know, you recall we had the Yahoo representative here testifying. There was a difference among our panelists. Google made it very clear that GMail and the information that would identify individuals is not accessible by the Chinese dictatorship. They can't just ask for it and get it the way they do with Yahoo.

I pointed out, as did other Members during that markup, or that hearing, I should say, that Shi Tao, an individual that got 10 years in Chinese prison simply for sending an e-mail—which obviously was in Yahoo because they locate that information inside the country of China, or the ability to access it. He got 10 years simply for telling other journalists, other individuals, via an e-mail about the

restrictions that the government was putting on the commemoration of Tiananmen Square.

In other words, they did a lockdown during the early days in June so that no one talks about the Tiananmen Square massacre. For that, he got 10 years.

That would not have happened with GMail or one of the other Internet companies. So we are saying that there are some companies that are doing it right, and we are trying to make it clear that we want to encourage that, while profoundly discouraging, through the use of law, companies like Yahoo.

So I think if this were to be knocked out, obviously we would have another argument at Full Committee. But it would really gut what I think is one of the essences of this legislation, and that is to prevent the secret police of China, or Belarus, or other Internet-restricting countries, from being able to find out who it is that is on the Internet, go to the door of that person, arrest them and put them into prison. That is the everyday, on-the-ground reality that we are trying to preclude with insertion of section 201, which in all due respect, the gentleman would strike.

So I hope Members would join me in resisting this amendment. I am sure it is well-intentioned, but I think it is misguided.

Would anyone else like to be heard on the amendment?

Ms. MCCOLLUM. Mr. Chairman, I would like to yield my time to Mr. Blumenauer.

Mr. SMITH OF NEW JERSEY. Sure.

Mr. BLUMENAUER. I will not take my additional time and I don't want to pose undue problems, but there are just two things that I would offer for the Committee's consideration, because I do think there is a very real question about how broad this sweep is. And I would hope that nobody would move forward with section 201 unless you are confident about how narrow that is going to be confined.

Second, to consider even if my earlier concern is one that you are comfortable with, the incentive that this provides to drive these companies offshore to have parts in wholly owned subsidiaries in these countries or to abandon markets.

The final point is just—to consider that it goes beyond just the situation with China. I mentioned the Reporters Without Borders' annual report where, included in this, are examples in Egypt, Saudi Arabia, Singapore, South Korea, where there have been abuses of the Internet, things that we would think inappropriate and, in some cases, unconscionable to politically interfere.

The sweep of what is going on in other countries is quite broad, and it goes far beyond what we heard from China. Looking through Tunisia, Thailand, Nepal, the Maldives, as I mentioned, South Korea, Malaysia, Burma, Egypt, Bahrain, these are ones that I have been able to identify where there are—in fact, according to your own source here, Reporters Without Borders—where there has been interference, political repression and attempts at control; and that these tend to be growing with time.

So obviously the intent of this legislation, I think, is honorable. I think it is important for us to work to try and protect.

I want to encourage that—we have heard from all four of our companies, but I do hope that people will look hard at section 201

for the reasons that I have mentioned. And I appreciate my colleague for yielding to me, and I will be quiet at this point. Thank you.

Mr. SMITH OF NEW JERSEY. Thank you. The gentlewoman yields back. Anyone else.

Mr. GREEN. Thank you, Mr. Chairman. I certainly appreciate the sincerity of the gentleman's comments and I think these are issues that we should obviously look at as we go to Full Committee, and should have a more thorough debate and discussion. I am sure that we will. And I look forward to help moving this legislation along in that process and give the gentleman the opportunity to help discuss those further.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Green.

The question occurs on the amendment.

All of those in favor, say aye.

Those opposed, no.

In the opinion of the Chair, the noes have it.

Mr. BLUMENAUER. May I have a division on that?

Mr. SMITH OF NEW JERSEY. The gentleman calls for a division.

All of those in favor of the amendment will raise their hands.

All of those opposed to it.

In the opinion of the Chair, the noes have it.

Any further amendments to the pending legislation? If not the question occurs on the amendment in the nature of a substitute.

All of those in favor, say aye.

All of those opposed, say no.

The ayes have it and the amendment in the nature of a substitute is agreed to.

The question occurs on the motion to report the bill favorably.

All of those in favor, say aye.

Those opposed, no.

The ayes have it and the bill will be reported favorably.

Without objection, the staff is directed to make any technical and conforming amendments.

Pursuant to notice, I call up the final bill on today's agenda, H.R. 5382, the Central Asia Democracy and Human Rights Promotion Act of 2006 for purposes of markup and move its favorable recommendation to the Full Committee.

Without objection, the bill will be considered as read and open for amendment at any point.

[H.R. 5382 follows:]

109TH CONGRESS
2D SESSION

H. R. 5382

To promote the development of democratic institutions and full respect for human rights in the countries of Central Asia.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2006

Mr. SMITH of New Jersey (for himself, Mr. MCINTYRE, Mr. MCCOTTER, Mr. LANTOS, Mr. PITTS, Mr. BURTON of Indiana, and Mrs. JO ANN DAVIS of Virginia) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote the development of democratic institutions and full respect for human rights in the countries of Central Asia.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Central Asia Democ-
5 racy and Human Rights Promotion Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Fifteen years after independence, the five
2 countries of Central Asia—Kazakhstan, Kyrgyzstan,
3 Tajikistan, Turkmenistan, and Uzbekistan—are
4 struggling, to varying degrees, with their transition
5 from authoritarian rule to democratic societies that
6 fully respect human rights and uphold their freely
7 undertaken commitments as participating States in
8 the Organization for Security and Cooperation in
9 Europe (OSCE).

10 (2) As OSCE participating States, the countries
11 of Central Asia committed themselves in the Charter
12 of Paris for a New Europe to “build, consolidate
13 and strengthen democracy as the only system of gov-
14 ernment of our nations”.

15 (3) In the Global War on Terrorism, the United
16 States is increasingly engaged with the countries of
17 Central Asia on a political, economic, and military
18 basis.

19 (4) In the Global War on Terrorism, policies
20 that bolster authoritarian governments which sup-
21 press and terrorize their own people will ultimately
22 be self defeating, as repression often breeds extre-
23 mism and terrorism.

24 (5) The Final Report of the National Commis-
25 sion on Terrorist Attacks Upon the United States

1 (commonly referred to as the “9/11 Commission”)
2 recommended: “[T]he United States must stand for
3 a better future. One of the lessons of the long Cold
4 War was that short-term gains in cooperating with
5 the most repressive and brutal governments were too
6 often outweighed by long-term setbacks for Amer-
7 ica’s stature and interests.”.

8 (6) The September 2004 Final Report of the
9 Defense Science Board Task Force on Strategic
10 Communication stated: “The perception of intimate
11 U.S. support of tyrannies in the Muslim World is
12 perhaps the critical vulnerability in American strat-
13 egy. It strongly undercuts our message, while
14 strongly promoting that of the enemy.”.

15 (7) In a speech to the United Nations General
16 Assembly on September 21, 2004, President George
17 W. Bush stated: “People everywhere are capable of
18 freedom, and worthy of freedom . . . For too long,
19 many nations, including my own, tolerated, even ex-
20 cused, oppression in the Middle East in the name of
21 stability. Oppression became common, but stability
22 never arrived. We must take a different approach.”.

23 (8) In his second inaugural address on January
24 20, 2005, President George W. Bush stated: “For
25 as long as whole regions of the world simmer in re-

1 sentment and tyranny—prone to ideologies that feed
2 hatred and excuse murder—violence will gather, and
3 multiply in destructive power, and cross the most de-
4 fended borders, and raise a mortal threat.” In this
5 address, President Bush further declared: “It is the
6 policy of the United States to seek and support the
7 growth of democratic movements and institutions in
8 every nation and culture, with the ultimate goal of
9 ending tyranny in our world.”.

10 (9) The October 2005 National Intelligence
11 Strategy of the United States of America, issued by
12 the Director of National Intelligence, stated: “We
13 have learned at our peril that the lack of freedom in
14 one state endangers the peace and freedom of oth-
15 ers. . . . Self-sustaining democratic states are essen-
16 tial to world peace and development.”.

17 (10) The March 2006 National Security Strat-
18 egy of the United States of America states: “The
19 United States must defend liberty and justice be-
20 cause these principles are right and true for all peo-
21 ple everywhere.”.

22 (11) The National Security Strategy of the
23 United States of America further elaborates: “These
24 nonnegotiable demands of human dignity are pro-
25 tected most securely in democracies. The United

1 States Government will work to advance human dig-
2 nity in word and deed, speaking out for freedom and
3 against violations of human rights and allocating ap-
4 propriate resources to advance these ideals.”.

5 **SEC. 3. SENSE OF THE CONGRESS.**

6 It is the sense of Congress that—

7 (1) the United States should support those govern-
8 ments and individuals making substantial and
9 sustained progress to establish democracy, guarantee
10 the rule of law, and protect human rights;

11 (2) the United States should use every peaceful
12 means at its disposal to encourage the countries of
13 Central Asia to provide greater respect for democ-
14 racy, the rule of law, and human rights, thereby pro-
15 moting the long-term stability and security of the
16 Central Asian region, and ensure that all assistance
17 programs for the Central Asian region support and
18 communicate this goal; and

19 (3) the United States should seek and support
20 the growth of democratic movements and institu-
21 tions in every nation and culture, with the ultimate
22 goal of ending tyranny in our world.

1 **SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY, RULE OF**
2 **LAW, AND HUMAN RIGHTS IN THE COUN-**
3 **TRIES OF CENTRAL ASIA.**

4 (a) **PURPOSES OF ASSISTANCE.**—The purposes of as-
5 sistance under this section include—

6 (1) to encourage free and fair presidential, par-
7 liamentary, and local elections in the countries of
8 Central Asia, conducted in a manner consistent with
9 Organization for Security and Cooperation in Eu-
10 rope (OSCE) and internationally accepted stand-
11 ards;

12 (2) to ensure in the countries of Central Asia
13 the full respect for all human rights, including free-
14 dom of expression and the media, freedom of reli-
15 gion and association, prevention of torture, and the
16 end of human trafficking from, to, and through the
17 Central Asian region, conducted in a manner con-
18 sistent with OSCE and internationally accepted
19 standards; and

20 (3) to develop rule of law, in particular inde-
21 pendent judicial systems and professional law en-
22 forcement, and to combat corruption, conducted in a
23 manner consistent with OSCE and internationally
24 accepted standards.

25 (b) **AUTHORIZATION FOR ASSISTANCE.**—

1 (1) IN GENERAL.—To carry out the purposes of
2 subsection (a), the President is authorized to provide
3 assistance for the countries of Central Asia to sup-
4 port the activities described in subsection (c).

5 (2) LIMITATION.—The authority to provide as-
6 sistance for the countries of Central Asia under
7 paragraph (1) shall be subject to all applicable limi-
8 tations on assistance for such countries and other
9 requirements relating to assistance for such coun-
10 tries under any Act making appropriations for for-
11 eign operations, export financing, and related pro-
12 grams.

13 (c) ACTIVITIES SUPPORTED.—Activities that may be
14 supported by assistance under subsection (b) include—

15 (1) observing elections and promoting free and
16 fair electoral processes;

17 (2) encouraging the development of sustainable
18 civic structures representative of society, such as en-
19 vironmental groups, independent labor unions, demo-
20 cratic political parties, and other community-based
21 organizations;

22 (3) maintaining libraries in the languages of
23 Central Asia to explain democracy in the United
24 States;

1 (4) developing independent media to work in
2 the countries of Central Asia, supported by
3 nonstate-controlled printing facilities;

4 (5) independent radio and television broad-
5 casting to and within the countries of Central Asia;

6 (6) encouraging the liberalization of laws affect-
7 ing religious practice and their enforcement to pro-
8 mote greater freedoms for individuals to meet alone
9 or in community with others, to move freely, and in
10 the sharing of beliefs;

11 (7) educating law enforcement officials with re-
12 spect to the existence and enforcement of legal pro-
13 hibitions concerning torture;

14 (8) prosecuting human traffickers, as well as
15 providing increased police training and education ef-
16 forts, including on forced labor;

17 (9) training and assistance for judicial reform
18 and development;

19 (10) training in democratic governance and
20 human rights for nationals and exiles of the coun-
21 tries of Central Asia who are unable to live in their
22 own country due to fear of persecution;

23 (11) training in effective human rights and hu-
24 manitarian law as a part of non-lethal training pro-
25 grams for units of the security forces of the coun-

1 tries of Central Asia (other than any unit of the se-
2 curity forces of such countries with respect to which
3 the Secretary of State has credible evidence that
4 such unit has committed gross violations of human
5 rights);

6 (12) establishing programs to combat corrup-
7 tion and support good governance; and

8 (13) other activities consistent with the pur-
9 poses of this section.

10 (d) REPORT.—

11 (1) IN GENERAL.—Not later than 90 days after
12 the date of the enactment of this Act, and annually
13 thereafter, the President shall transmit to the appro-
14 priate congressional committees a report on assist-
15 ance provided for the countries of Central Asia
16 under this section for the one-year period ending 30
17 days prior to the transmission of the report.

18 (2) CONTENTS.—The report shall include with
19 respect to each country of Central Asia a detailed
20 description of each of the following:

21 (A) The types and amount of assistance
22 provided under this section, including the types
23 and amount of defense articles and defense
24 services and the amount of financial assistance.

25 In addition, the name of each department or

1 agency of the Government of the United States
2 that provides assistance under this section and
3 the name of each recipient of such assistance.

4 (B) The use of such assistance, including
5 the use of defense articles, defense services, and
6 financial assistance, by units of the armed
7 forces, border guards, or other security forces
8 of the country.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—There are authorized to be
11 appropriated to the President to carry out this sec-
12 tion \$118,200,000 for each of the fiscal years 2007
13 and 2008.

14 (2) AVAILABILITY.—Amounts appropriated pur-
15 suant to the authorization of appropriations under
16 paragraph (1) are authorized to remain available
17 until expended.

18 **SEC. 5. RADIO BROADCASTING TO THE COUNTRIES OF CEN-**
19 **TRAL ASIA.**

20 (a) PURPOSE.—The purpose of this section is to au-
21 thorize increased support for surrogate radio broadcasting
22 to the countries of Central Asia that will facilitate the
23 unhindered dissemination of information in the Central
24 Asian region regarding the activities supported by this
25 Act.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
2 tion to such sums as are otherwise authorized to be appro-
3 priated, there are authorized to be appropriated
4 \$15,000,000 for each of the fiscal years 2007 and 2008
5 for Voice of America and RFE/RL, Incorporated for ex-
6 panded radio broadcasting to the people of the countries
7 of Central Asia in languages spoken in Central Asia, in-
8 cluding broadcasting in the Russian language, and the es-
9 tablishment of Internet websites.

10 (c) REPORT.—Not later than 120 days after the date
11 of the enactment of this Act, the Secretary of State shall
12 submit to the appropriate congressional committees a re-
13 port on how funds are appropriated and allocated pursu-
14 ant to the authorizations of appropriations under sub-
15 section (b) and section 4(e) will be used to provide short-
16 wave, AM, and FM broadcasting that covers the Central
17 Asian region and delivers independent and uncensored
18 programming.

19 **SEC. 6. LIMITATION ON UNITED STATES ASSISTANCE TO**
20 **THE GOVERNMENTS OF COUNTRIES OF CEN-**
21 **TRAL ASIA.**

22 (a) LIMITATION.—

23 (1) IN GENERAL.—Amounts made available by
24 an Act making appropriations for foreign operations,
25 export financing, and related programs for a fiscal

1 year may be provided to the government of a coun-
2 try of Central Asia only if the Secretary of State
3 certifies to the appropriate congressional committees
4 that the government of the country has made signifi-
5 cant improvements in the protection of human rights
6 during the preceding one-year period, including in
7 the areas of democratization, speech and press free-
8 doms, freedom of religion, efforts to combat torture,
9 and the rule of law.

10 (2) ADDITIONAL LIMITATION.—The limitation
11 on assistance for the government of a country of
12 Central Asia under paragraph (1) is in addition to
13 any other applicable limitation on assistance for
14 such government and any other requirement relating
15 to assistance for such government under any Act
16 making appropriations for foreign operations, export
17 financing, and related programs.

18 (b) WAIVER.—The Secretary of State may waive the
19 application of subsection (a) with respect to the govern-
20 ment of a country of Central Asia if the Secretary deter-
21 mines and reports to the appropriate congressional com-
22 mittees that such a waiver is important to the national
23 security of the United States and includes the reasons for
24 the determination.

1 (c) USE OF WITHHELD ASSISTANCE.—Any amounts
2 withheld from obligation and expenditure for assistance to
3 the government of a country of Central Asia by reason
4 of the application of subsection (a) for a fiscal year are
5 authorized to be made available for assistance for training
6 relating to democratic governance and human rights for
7 domestic civil society groups or nationals or exiles of the
8 Central Asian country who are unable to live in their own
9 country due to fear of persecution.

10 (d) EFFECTIVE DATE.—The requirements of this
11 section apply with respect to funds appropriated for assist-
12 ance for the governments of the countries of Central Asia
13 for fiscal years 2007 and 2008.

14 **SEC. 7. SANCTIONS AGAINST UZBEKISTAN.**

15 (a) LIMITATION ON ASSISTANCE.—Amounts made
16 available by an Act making appropriations for foreign op-
17 erations, export financing, and related programs for a fis-
18 cal year may be provided to the central Government of
19 Uzbekistan only if the Secretary of State determines and
20 reports to the appropriate congressional committees
21 that—

22 (1) the Government of Uzbekistan is making
23 substantial and continuing progress in meeting its
24 commitments under the ‘Declaration on the Stra-
25 tegic Partnership and Cooperation Framework Be-

1 tween the Republic of Uzbekistan and the United
2 States of America', including respect for human
3 rights, establishing a genuine multi-party system,
4 and ensuring free and fair elections, freedom of ex-
5 pression, and the independence of the media; and

6 (2) a credible international investigation of the
7 May 13, 2005, shootings in Andijan is underway
8 with the support of the Government of Uzbekistan.

9 (b) IDENTIFICATION OF INDIVIDUALS TO BE SUB-
10 JECT TO RESTRICTIONS.—The Secretary of State shall—

11 (1) identify Uzbek officials, their immediate
12 family members, and any associates of those so
13 named, implicated in the Andijan massacre, involved
14 through the chain of command in such abuses, or in-
15 volved in other gross violations of human rights com-
16 mitted in Uzbekistan; and

17 (2) notify the Secretary of the Treasury, Attor-
18 ney General, and the appropriate congressional com-
19 mittees of such identification.

20 (c) FREEZING OF ASSETS.—

21 (1) IN GENERAL.—The Secretary of the Treas-
22 ury shall immediately block any assets, property,
23 transactions in foreign exchange, currency, or securi-
24 ties, and transfers of credit or payments between,
25 by, through, or to any banking institution under the

1 jurisdiction of the United States of an individual
2 identified under subsection (b) of this section.

3 (2) REPORTING REQUIREMENT.—Not later than
4 14 days after a decision to freeze the assets identi-
5 fied in this subsection of any individual identified
6 under subsection (b), the Secretary of the Treasury
7 shall—

8 (A) report the name of such individual to
9 the appropriate congressional committees; and

10 (B) require any United States financial in-
11 stitution holding such funds or assets shall
12 promptly report those funds and assets to the
13 Office of Foreign Assets Control.

14 (d) VISA BAN.—The Secretary of State may not issue
15 any visa to, and the Attorney General may not admit to
16 the United States, any individual identified under sub-
17 section (b) of this section.

18 (e) WAIVER.—The Secretary of the Treasury may
19 waive the prohibition in subsection (c) and the Secretary
20 of State may waive the prohibition in subsection (d) if the
21 Secretary concerned determines and certifies to the appro-
22 priate congressional committees that it is important to the
23 national security of the United States to do so.

24 (f) MUNITIONS EXPORT LICENSES.—The Secretary
25 of State shall prohibit the export to Uzbekistan of any

1 item, including the issuance of a license for the export of
2 any item, on the United States Munitions List. The Sec-
3 retary of Commerce shall prohibit the export to
4 Uzbekistan of any item on the Commerce Control List of
5 dual-use items in the Export Administration Regulations.

6 (g) REPORT REGARDING UNITED STATES POLICY
7 TOWARD UZBEKISTAN.—

8 (1) IN GENERAL.—Not later than 90 days after
9 the date of the enactment of this Act, the Secretary
10 of State shall submit to the appropriate congres-
11 sional committees a report regarding United States
12 policy toward Uzbekistan.

13 (2) CONTENTS.—The report required by para-
14 graph (1) shall include a detailed description of each
15 of the following:

16 (A) The objectives of United States policy
17 toward Uzbekistan with respect to democratiza-
18 tion, human rights, economic reforms, regional
19 security, and the war on terrorism.

20 (B) The strategy of the Government of the
21 United States for achieving the objectives de-
22 scribed under subparagraph (A).

23 (C) The steps taken by the Government of
24 the United States to advance the strategy de-
25 scribed under subparagraph (B) since the mas-

1 sacre in Andijan and the decision of the Gov-
2 ernment of Uzbekistan to expel United States
3 military forces from Uzbekistan.

4 (3) FORM.—The report required by paragraph
5 (1) shall be in unclassified form but may contain a
6 classified annex.

7 (h) EFFECTIVE DATE.—The requirements of—

8 (1) subsection (a) apply with respect to funds
9 appropriated for assistance for the Government of
10 Uzbekistan for fiscal years 2007 and 2008; and

11 (2) subsections (b) through (f) apply during fis-
12 cal years 2007 and 2008.

13 **SEC. 8. REPORT.**

14 Prior to the initial obligation of assistance for the
15 government of a country of Central Asia for a fiscal year,
16 the Secretary of State shall submit to the appropriate con-
17 gressional committees a report describing—

18 (1) whether the government is forcibly return-
19 ing Uzbeks or other refugees who have fled violence
20 and political persecution, in violation of the 1951
21 Geneva Convention Relating to the Status of Refu-
22 gees and the Convention Against Torture and Other
23 Forms of Cruel, Inhuman, or Degrading Treatment;

24 (2) efforts made by the United States to pre-
25 vent such returns; and

1 (3) the response of the government to those sit-
2 uations.

3 **SEC. 9. DEFINITIONS.**

4 In this Act:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Appropriations and
9 the Committee on International Relations of the
10 House of Representatives; and

11 (B) the Committee on Appropriations and
12 the Committee on Foreign Relations of the Sen-
13 ate.

14 (2) COUNTRIES OF CENTRAL ASIA.—The term
15 “countries of Central Asia” means Kazakhstan,
16 Kyrgyzstan, Tajikistan, Turkmenistan, and
17 Uzbekistan.

○

Mr. SMITH OF NEW JERSEY. I do have an amendment in the nature of a substitute. Without objection, it will be considered as read.

[The information referred to follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5382
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Central Asia Democ-
3 racy and Human Rights Promotion Act of 2006”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Fifteen years after independence, the five
7 countries of Central Asia—Kazakhstan, Kyrgyzstan,
8 Tajikistan, Turkmenistan, and Uzbekistan—are
9 struggling, to varying degrees, with their transition
10 from authoritarian rule to democratic societies that
11 fully respect human rights and uphold their freely
12 undertaken commitments as participating States in
13 the Organization for Security and Cooperation in
14 Europe (OSCE).

15 (2) As OSCE participating States, the countries
16 of Central Asia committed themselves in the Charter
17 of Paris for a New Europe to “build, consolidate

1 and strengthen democracy as the only system of gov-
2 ernment of our nations”.

3 (3) In the Global War on Terrorism, the United
4 States is increasingly engaged with the countries of
5 Central Asia on a political, economic, and military
6 basis.

7 (4) In the Global War on Terrorism, policies
8 that bolster authoritarian governments which sup-
9 press and terrorize their own people will ultimately
10 be self defeating, as repression often breeds extre-
11 mism and terrorism.

12 (5) The Final Report of the National Commis-
13 sion on Terrorist Attacks Upon the United States
14 (commonly referred to as the “9/11 Commission”)
15 recommended: “[T]he United States must stand for
16 a better future. One of the lessons of the long Cold
17 War was that short-term gains in cooperating with
18 the most repressive and brutal governments were too
19 often outweighed by long-term setbacks for Amer-
20 ica’s stature and interests.”.

21 (6) The September 2004 Final Report of the
22 Defense Science Board Task Force on Strategic
23 Communication stated: “The perception of intimate
24 U.S. support of tyrannies in the Muslim World is
25 perhaps the critical vulnerability in American strat-

1 egy. It strongly undercuts our message, while
2 strongly promoting that of the enemy.”.

3 (7) In a speech to the United Nations General
4 Assembly on September 21, 2004, President George
5 W. Bush stated: “People everywhere are capable of
6 freedom, and worthy of freedom . . . For too long,
7 many nations, including my own, tolerated, even ex-
8 cused, oppression in the Middle East in the name of
9 stability. Oppression became common, but stability
10 never arrived. We must take a different approach.”.

11 (8) In his second inaugural address on January
12 20, 2005, President George W. Bush stated: “For
13 as long as whole regions of the world simmer in re-
14 sentment and tyranny—prone to ideologies that feed
15 hatred and excuse murder—violence will gather, and
16 multiply in destructive power, and cross the most de-
17 fended borders, and raise a mortal threat.”. In this
18 address, President Bush further declared: “It is the
19 policy of the United States to seek and support the
20 growth of democratic movements and institutions in
21 every nation and culture, with the ultimate goal of
22 ending tyranny in our world.”.

23 (9) The October 2005 National Intelligence
24 Strategy of the United States of America, issued by
25 the Director of National Intelligence, stated: “We

1 have learned at our peril that the lack of freedom in
2 one state endangers the peace and freedom of oth-
3 ers. . . . Self-sustaining democratic states are essen-
4 tial to world peace and development.”.

5 (10) The March 2006 National Security Strat-
6 egy of the United States of America states: “The
7 United States must defend liberty and justice be-
8 cause these principles are right and true for all peo-
9 ple everywhere.”.

10 (11) The National Security Strategy of the
11 United States of America further elaborates: “These
12 nonnegotiable demands of human dignity are pro-
13 tected most securely in democracies. The United
14 States Government will work to advance human dig-
15 nity in word and deed, speaking out for freedom and
16 against violations of human rights and allocating ap-
17 propriate resources to advance these ideals.”.

18 **SEC. 3. SENSE OF THE CONGRESS.**

19 It is the sense of Congress that—

20 (1) the United States should support those gov-
21 ernments and individuals making substantial and
22 sustained progress to establish democracy, guarantee
23 the rule of law, and protect human rights;

24 (2) the United States should use every peaceful
25 means at its disposal to encourage the countries of

1 Central Asia to provide greater respect for democ-
2 cracy, the rule of law, and human rights, thereby pro-
3 moting the long-term stability and security of the
4 Central Asian region, and ensure that all assistance
5 programs for the Central Asian region support and
6 communicate this goal; and

7 (3) the United States should seek and support
8 the growth of democratic movements and institu-
9 tions in every nation and culture, with the ultimate
10 goal of ending tyranny in our world.

11 **SEC. 4. SUPPORT FOR DEMOCRACY, RULE OF LAW, AND**
12 **HUMAN RIGHTS IN THE COUNTRIES OF CEN-**
13 **TRAL ASIA.**

14 (a) AMENDMENT.—Part I of the Foreign Assistance
15 Act of 1961 (22 U.S.C. 2151 et seq.) is amended by add-
16 ing at the end the following new chapter:

17 **“CHAPTER 13—SUPPORT FOR DEMOC-**
18 **RACY, RULE OF LAW, AND HUMAN**
19 **RIGHTS IN THE COUNTRIES OF CEN-**
20 **TRAL ASIA**

21 **“SEC. 499N. ASSISTANCE TO PROMOTE DEMOCRACY, RULE**
22 **OF LAW, AND HUMAN RIGHTS.**

23 “(a) PURPOSES OF ASSISTANCE.—The purposes of
24 assistance under this section include—

1 “(1) to encourage free and fair presidential,
2 parliamentary, and local elections in the countries of
3 Central Asia, conducted in a manner consistent with
4 Organization for Security and Cooperation in Eu-
5 rope (OSCE) and internationally accepted stand-
6 ards;

7 “(2) to ensure in the countries of Central Asia
8 the full respect for all human rights, including free-
9 dom of expression and the media, freedom of reli-
10 gion and association, prevention of torture, and the
11 end of trafficking in persons from, to, and through
12 the Central Asian region, conducted in a manner
13 consistent with OSCE and internationally accepted
14 standards; and

15 “(3) to develop rule of law, in particular inde-
16 pendent judicial systems and professional law en-
17 forcement, and to combat corruption, conducted in a
18 manner consistent with OSCE and internationally
19 accepted standards.

20 “(b) AUTHORIZATION FOR ASSISTANCE.—

21 “(1) IN GENERAL.—To carry out the purposes
22 of subsection (a), the President, acting through the
23 Secretary of State and the Administrator of the
24 United States Agency for International Develop-
25 ment, is authorized to provide assistance for the

1 countries of Central Asia to support the activities
2 described in subsection (c).

3 “(2) LIMITATION.—The authority to provide as-
4 sistance for the countries of Central Asia under
5 paragraph (1) shall be subject to all applicable limi-
6 tations on assistance for such countries and other
7 requirements relating to assistance for such coun-
8 tries under any Act making appropriations for for-
9 eign operations, export financing, and related pro-
10 grams.

11 “(c) ACTIVITIES SUPPORTED.—Activities that may
12 be supported by assistance under subsection (b) include—

13 “(1) observing elections and promoting free and
14 fair electoral processes;

15 “(2) encouraging the development of sustain-
16 able civic structures representative of society, such
17 as environmental groups, independent labor unions,
18 democratic political parties, and other community-
19 based organizations;

20 “(3) maintaining libraries in the languages of
21 Central Asia to explain democracy in the United
22 States;

23 “(4) developing independent media to work in
24 the countries of Central Asia, supported by
25 nonstate-controlled printing facilities;

1 “(5) independent radio and television broad-
2 casting to and within the countries of Central Asia;

3 “(6) encouraging the liberalization of laws af-
4 fecting religious practice and their enforcement to
5 promote greater freedoms for individuals to meet
6 alone or in community with others, to move freely,
7 and in the sharing of beliefs;

8 “(7) educating law enforcement officials with
9 respect to the existence and enforcement of legal
10 prohibitions concerning torture;

11 “(8) prosecuting human traffickers, as well as
12 providing increased police training and education ef-
13 forts, including on forced labor;

14 “(9) training and assistance for judicial reform
15 and development;

16 “(10) training in democratic governance and
17 human rights for nationals and exiles of the coun-
18 tries of Central Asia who are unable to live in their
19 own country due to fear of persecution;

20 “(11) training in effective human rights and
21 humanitarian law as a part of non-lethal training
22 programs for units of the security forces of the
23 countries of Central Asia (other than any unit of the
24 security forces of such countries with respect to
25 which the Secretary of State has credible evidence

1 that such unit has committed gross violations of
2 human rights);

3 “(12) establishing programs to combat corrup-
4 tion and support good governance; and

5 “(13) other activities consistent with the pur-
6 poses of this section.

7 “(d) REPORT.—

8 “(1) IN GENERAL.—Not later than 90 days
9 after the date of the enactment of Central Asia De-
10 mocracy and Human Rights Promotion Act of 2006,
11 and annually thereafter, the President shall transmit
12 to the appropriate congressional committees a report
13 on assistance provided for the countries of Central
14 Asia under this section for the one-year period end-
15 ing 30 days prior to the transmission of the report.

16 “(2) CONTENTS.—The report shall include with
17 respect to each country of Central Asia a detailed
18 description of each of the following:

19 “(A) The types and amount of assistance
20 provided under this section, including the types
21 and amount of defense articles and defense
22 services and the amount of financial assistance.

23 In addition, the name of each department or
24 agency of the Government of the United States

1 that provides assistance under this section and
2 the name of each recipient of such assistance.

3 “(B) The use of such assistance, including
4 the use of defense articles, defense services, and
5 financial assistance, by units of the armed
6 forces, border guards, or other security forces
7 of the country.

8 “(e) AUTHORIZATION OF APPROPRIATIONS.—

9 “(1) IN GENERAL.—There are authorized to be
10 appropriated to the President to carry out this sec-
11 tion \$97,000,000 for each of the fiscal years 2007
12 and 2008.

13 “(2) AVAILABILITY.—Amounts appropriated
14 pursuant to the authorization of appropriations
15 under paragraph (1) are authorized to remain avail-
16 able until expended.

17 **“SEC. 4990. RADIO BROADCASTING.**

18 “(a) PURPOSE.—The purpose of this section is to au-
19 thorize increased support for surrogate radio broadcasting
20 to the countries of Central Asia that will facilitate the
21 unhindered dissemination of information in the Central
22 Asian region regarding the activities supported by this
23 chapter.

24 “(b) AUTHORIZATION OF APPROPRIATIONS.—In ad-
25 dition to such sums as are otherwise authorized to be ap-

1 appropriated, there are authorized to be appropriated
2 \$10,000,000 for each of the fiscal years 2007 and 2008
3 for Voice of America and RFE/RL, Incorporated for ex-
4 panded radio broadcasting to the people of the countries
5 of Central Asia in languages spoken in Central Asia, in-
6 cluding broadcasting in the Russian language, and the es-
7 tablishment of Internet websites.

8 **“SEC. 499P. REPORT.**

9 “Prior to the initial obligation of assistance for the
10 government of a country of Central Asia for a fiscal year,
11 the Secretary of State shall submit to the appropriate con-
12 gressional committees a report describing—

13 “(1) whether the government is forcibly return-
14 ing Uzbeks or other refugees who have fled violence
15 and political persecution, in violation of the 1951
16 Geneva Convention Relating to the Status of Refu-
17 gees and the Convention Against Torture and Other
18 Forms of Cruel, Inhuman, or Degrading Treatment;

19 “(2) efforts made by the United States to pre-
20 vent such returns; and

21 “(3) the response of the government to those
22 situations.

23 **“SEC. 499Q. DEFINITIONS.**

24 “In this chapter:

1 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term ‘appropriate congressional com-
3 mittees’ means—

4 “(A) the Committee on Appropriations and
5 the Committee on International Relations of the
6 House of Representatives; and

7 “(B) the Committee on Appropriations and
8 the Committee on Foreign Relations of the Sen-
9 ate.

10 “(2) COUNTRIES OF CENTRAL ASIA.—The term
11 ‘countries of Central Asia’ means Kazakhstan,
12 Kyrgyzstan, Tajikistan, Turkmenistan, and
13 Uzbekistan.”.

14 (b) REPORT.—Not later than 120 days after the date
15 of the enactment of this Act, the Secretary of State shall
16 submit to the appropriate congressional committees a re-
17 port on how funds are appropriated and allocated pursu-
18 ant to the authorizations of appropriations under sections
19 499N(e) and 499O(b) of the Foreign Assistance Act of
20 1961 (as added by subsection (a) of this section) will be
21 used to provide shortwave, AM, and FM broadcasting that
22 covers the Central Asian region and delivers independent
23 and uncensored programming.

1 **SEC. 5. LIMITATION ON ASSISTANCE TO THE GOVERN-**
2 **MENTS OF COUNTRIES OF CENTRAL ASIA.**

3 (a) AMENDMENTS.—Chapter 1 of part III of the For-
4 eign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is
5 amended—

6 (1) by redesignating the second section 620G
7 (as added by section 149 of Public Law 104–164
8 (110 Stat. 1436)) as section 620J; and

9 (2) by adding at the end the following new sec-
10 tion:

11 **“SEC. 620K. LIMITATION ON ASSISTANCE TO THE GOVERN-**
12 **MENTS OF COUNTRIES OF CENTRAL ASIA.**

13 “(a) LIMITATION.—

14 “(1) IN GENERAL.—Amounts made available by
15 an Act making appropriations for foreign operations,
16 export financing, and related programs for a fiscal
17 year may be used to provide assistance to the gov-
18 ernment of a country of Central Asia only if the Sec-
19 retary of State certifies to the appropriate congres-
20 sional committees that the government of the coun-
21 try has made significant improvements in the protec-
22 tion of human rights during the preceding one-year
23 period, including in the areas of democratization,
24 speech and press freedoms, freedom of religion, ef-
25 forts to combat torture, and the rule of law.

1 “(2) ADDITIONAL LIMITATION.—The limitation
2 on assistance for the government of a country of
3 Central Asia under paragraph (1) is in addition to
4 any other applicable limitation on assistance for
5 such government and any other requirement relating
6 to assistance for such government under any Act
7 making appropriations for foreign operations, export
8 financing, and related programs.

9 “(b) WAIVER.—The Secretary of State may waive the
10 application of subsection (a) with respect to the govern-
11 ment of a country of Central Asia if the Secretary deter-
12 mines and reports to the appropriate congressional com-
13 mittees that such a waiver is important to the national
14 security of the United States and includes the reasons for
15 the determination.

16 “(c) USE OF WITHHELD ASSISTANCE.—Any
17 amounts withheld from obligation and expenditure for as-
18 sistance to the government of a country of Central Asia
19 by reason of the application of subsection (a) for a fiscal
20 year are authorized to be made available for assistance
21 for training relating to democratic governance and human
22 rights for domestic civil society groups or nationals or ex-
23 iles of the Central Asian country who are unable to live
24 in their own country due to fear of persecution.

1 “(d) EXEMPTION OF CERTAIN ASSISTANCE.—The
2 limitation on assistance for the government of a country
3 of Central Asia under subsection (a) shall not apply with
4 respect to—

5 “(1) disaster relief assistance, including any as-
6 sistance under chapter 9 of part I of this Act;

7 “(2) assistance which involves the provision of
8 food (including monetization of food) or medicine;

9 “(3) assistance for refugees and internally dis-
10 placed persons;

11 “(4) assistance to combat HIV/AIDS, including
12 any assistance under section 104A of this Act;

13 “(5) assistance for people-to-people exchanges;
14 and

15 “(6) assistance to combat trafficking in per-
16 sons, including any assistance under the Trafficking
17 Victims Protection Act of 2000 (division A of Public
18 Law 106–386; 22 U.S.C. 7101 et seq.).

19 “(e) DEFINITIONS.—In this section:

20 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—The term ‘appropriate congressional com-
22 mittees’ means—

23 “(A) the Committee on Appropriations and
24 the Committee on International Relations of the
25 House of Representatives; and

1 “(B) the Committee on Appropriations and
2 the Committee on Foreign Relations of the Sen-
3 ate.

4 “(2) COUNTRIES OF CENTRAL ASIA.—The term
5 ‘countries of Central Asia’ means Kazakhstan,
6 Kyrgyzstan, Tajikistan, Turkmenistan, and
7 Uzbekistan.”.

8 (b) EFFECTIVE DATE.—The requirements of section
9 620K of the Foreign Assistance Act of 1961 (as added
10 by subsection (a) of this section) apply with respect to
11 funds appropriated for assistance for the governments of
12 the countries of Central Asia for fiscal years 2007 and
13 2008.

14 **SEC. 6. SANCTIONS AGAINST UZBEKISTAN.**

15 (a) AMENDMENT.—Chapter 1 of part III of the For-
16 eign Assistance Act of 1961 (22 U.S.C. 2351 et seq.), as
17 amended by section 5(a)(2) of this Act, is further amended
18 by adding at the end the following new section:

19 **“SEC. 620L. SANCTIONS AGAINST UZBEKISTAN.**

20 “(a) LIMITATION ON ASSISTANCE.—Amounts made
21 available by an Act making appropriations for foreign op-
22 erations, export financing, and related programs for a fis-
23 cal year may be used to provide assistance (including the
24 transfer of excess defense articles) to the central Govern-
25 ment of Uzbekistan only if the Secretary of State deter-

1 mines and reports to the appropriate congressional com-
2 mittees that—

3 “(1) the Government of Uzbekistan is making
4 substantial and continuing progress in meeting its
5 commitments under the ‘Declaration on the Stra-
6 tegic Partnership and Cooperation Framework Be-
7 tween the Republic of Uzbekistan and the United
8 States of America’, including respect for human
9 rights, establishing a genuine multi-party system,
10 and ensuring free and fair elections, freedom of ex-
11 pression, and the independence of the media; and

12 “(2) a credible international investigation of the
13 May 13, 2005, shootings in Andijan is underway
14 with the support of the Government of Uzbekistan.

15 “(b) IDENTIFICATION OF INDIVIDUALS TO BE SUB-
16 JECT TO RESTRICTIONS.—The Secretary of State shall—

17 “(1) identify—

18 “(A) senior officials of the Government of
19 Uzbekistan, including the President, Prime
20 Minister, and members of the Cabinet of Min-
21 isters, the immediate family members of such
22 officials, and any associates of such officials
23 who are implicated in the Andijan massacre, in-
24 volved through the chain of command in such

1 massacre, or involved in other gross violations
2 of human rights committed in Uzbekistan; and

3 “(B) other individuals who provide sub-
4 stantial economic or political support for senior
5 officials of the Government of Uzbekistan; and

6 “(2) notify the Secretary of the Treasury, At-
7 torney General, and the appropriate congressional
8 committees of such identification.

9 “(c) FREEZING OF ASSETS.—

10 “(1) IN GENERAL.—The Secretary of the
11 Treasury shall immediately block any assets, prop-
12 erty, transactions in foreign exchange, currency, or
13 securities, and transfers of credit or payments be-
14 tween, by, through, or to any banking institution
15 under the jurisdiction of the United States of an in-
16 dividual identified under subsection (b) of this sec-
17 tion.

18 “(2) REPORTING REQUIREMENT.—Not later
19 than 14 days after a decision to freeze the assets
20 identified in this subsection of any individual identi-
21 fied under subsection (b), the Secretary of the
22 Treasury shall—

23 “(A) report the name of such individual to
24 the appropriate congressional committees; and

1 “(B) require any United States financial
2 institution holding such funds or assets shall
3 promptly report those funds and assets to the
4 Office of Foreign Assets Control.

5 “(d) VISA BAN.—The Secretary of State may not
6 issue any visa to, and the Attorney General may not admit
7 to the United States, any individual identified under sub-
8 section (b) of this section.

9 “(e) WAIVER.—The Secretary of the Treasury may
10 waive the prohibition in subsection (c) and the Secretary
11 of State may waive the prohibition in subsection (d) if the
12 Secretary concerned determines and certifies to the appro-
13 priate congressional committees that it is important to the
14 national security of the United States to do so.

15 “(f) MUNITIONS EXPORT LICENSES.—The Secretary
16 of State shall prohibit the export to Uzbekistan of any
17 item, including the issuance of a license for the export of
18 any item, on the United States Munitions List. The Sec-
19 retary of Commerce shall prohibit the export to
20 Uzbekistan of any item on the Commerce Control List of
21 dual-use items in the Export Administration Regulations.

22 “(g) DEFINITIONS.—In this section:

23 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term ‘appropriate congressional com-
25 mittees’ means—

1 “(A) the Committee on Appropriations and
2 the Committee on International Relations of the
3 House of Representatives; and

4 “(B) the Committee on Appropriations and
5 the Committee on Foreign Relations of the Sen-
6 ate.

7 “(2) COUNTRIES OF CENTRAL ASIA.—The term
8 ‘countries of Central Asia’ means Kazakhstan,
9 Kyrgyzstan, Tajikistan, Turkmenistan, and
10 Uzbekistan.”.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than 90 days after
13 the date of the enactment of this Act, the Secretary
14 of State shall submit to the appropriate congress-
15 sional committees a report regarding United States
16 policy toward Uzbekistan.

17 (2) CONTENTS.—The report required by para-
18 graph (1) shall include a detailed description of each
19 of the following:

20 (A) The objectives of United States policy
21 toward Uzbekistan with respect to democratiza-
22 tion, human rights, economic reforms, regional
23 security, and the war on terrorism.

1 (B) The strategy of the Government of the
2 United States for achieving the objectives de-
3 scribed under subparagraph (A).

4 (C) The steps taken by the Government of
5 the United States to advance the strategy de-
6 scribed under subparagraph (B) since the mas-
7 sacre in Andijan and the decision of the Gov-
8 ernment of Uzbekistan to expel United States
9 military forces from Uzbekistan.

10 (3) FORM.—The report required by paragraph
11 (1) shall be in unclassified form but may contain a
12 classified annex.

13 (c) EFFECTIVE DATE.—The requirements of—

14 (1) section 620L(a) of the Foreign Assistance
15 Act of 1961 (as added by subsection (a) of this sec-
16 tion) apply with respect to funds appropriated for
17 assistance for the Government of Uzbekistan for fis-
18 cal years 2007 and 2008; and

19 (2) subsections (b) through (f) of section 620L
20 of the Foreign Assistance Act of 1961 (as added by
21 subsection (a) of this section) apply during fiscal
22 years 2007 and 2008.

23 **SEC. 7. DEFINITIONS.**

24 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Appropriations and
5 the Committee on International Relations of the
6 House of Representatives; and

7 (B) the Committee on Appropriations and
8 the Committee on Foreign Relations of the Sen-
9 ate.

10 (2) COUNTRIES OF CENTRAL ASIA.—The term
11 “countries of Central Asia” means Kazakhstan,
12 Kyrgyzstan, Tajikistan, Turkmenistan, and
13 Uzbekistan.

Mr. SMITH OF NEW JERSEY. I would like to recognize myself for just a moment or two to explain the legislation that is before us. Since 9/11, the strategic nature of the troubled region of Central Asia for the United States has become apparent, as the five countries, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are strategically positioned at the crossroads of Europe and Asia.

Sadly, in the 15 years since independence, respect for human rights and democratization is alarmingly poor, and it has worsened.

As Chairman of this Subcommittee and as Co-Chairman of the Commission on Security and Cooperation in Europe, I appreciate the wide spectrum of conditions in Central Asia, which is why I introduced this bill, to help encourage these countries to vigorously pursue greater respect of fundamental freedoms.

Our interest is not just on the governments of the five “stans,” but also on U.S. foreign policy. Considering the increase of U.S. involvement in the region, I have been troubled by the apparent lack of a coherent, uniform policy to encourage these governments to respect human rights and democratization.

Consequently, one of the goals of the bill is to bring greater consistency to United States policy, creating a framework to guide our bilateral relations with Central Asia. The President, through his freedom agenda, has laid out bold principles to guide U.S. foreign policy. The act supports this agenda by providing \$97 million in assistance for human rights and democracy training, and \$10 million for increased Radio Free Europe, Radio Liberty, and Voice of America broadcasting.

The bill establishes a certification mechanism for the distribution of assistance to each government. The Secretary of State will determine whether each has made “significant improvements” in the protection of human rights. This system will have a national security waiver, and is modeled on the current system in foreign ops approps measures for Kazakhstan, but expanded for all five countries.

In addition, considering the forced return of Uzbek refugees from Kyrgyzstan and Kazakhstan, the act will require the Secretary of State to report on whether any government is forcibly returning Uzbeks or other refugees who have fled violence and political persecution.

This is modeled on language regarding Kyrgyzstan in the foreign ops approps bill and, again, expanded to all five countries. Notably the legislation will create a sanctions section for Uzbekistan. First, the bill places into law the limitations already established, and those limitations prevent funding to the Uzbek Government unless the Secretary of State determines the government is making substantial and continuing progress toward respect for human rights, and that the government begin a credible international investigation of Andijan. We all remember the great—the horrible murder and massacre that occurred there.

The act would also mirror European Union sanctions by establishing a visa ban and export ban on munitions. The sanctions sections also establishes an asset freeze for Uzbek officials, their family members, and their associates implicated in the Andijan massacre or involved in other gross violations of human rights.

Protection of fundamental freedoms for the people of Central Asia will ultimately promote, I believe, and I think we all believe, long-term stability and security in the region. Acquiescence to the status quo challenges the sincerity of our stated objectives as declared in the National Security Strategy for 2006 that the U.S. must defend liberty and justice, because these principles are right and true for all people everywhere.

The bill has been cosponsored by a large number of Members of our Subcommittee, and the Full Committee as well. And at this point, I would yield to Mr. Payne for any comments he might have.

Mr. PAYNE. Thank you, Mr. Chairman. I certainly support the legislation, and I will be brief and urge its adoption.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Payne. Would any of our Members like to be heard on the legislation, on the amendment in the nature of a substitute?

The question now occurs on the amendment in the nature of a substitute.

All of those in favor, say aye.

Those opposed, say no.

The ayes have it, and the amendment in the nature of a substitute is agreed to. The question occurs on the motion to report the bill, H.R. 5382, favorably, as amended.

All of those in favor of reporting it favorably, say aye.

Those opposed, say no.

The ayes have it, and the motion is approved. Without objection, the staff is directed to make any technical and conforming amendments.

Ms. LEE. Mr. Chairman, I have a question that I would like to ask and enter into a colloquy with you about a bill that was pulled today, the African Development Foundation Bill, H.R. 5652. We have been working in a bipartisan way to try to get all of the issues and difficulties—and there were not many—resolved in this. And we thought coming to this hearing today that everything had been resolved, only to find that the bill was pulled. And I would like to ask you what the objections are now.

Mr. SMITH OF NEW JERSEY. I thank the gentlewoman. First of all, the bill, we have been looking at it. As you know, we held a hearing at which representatives of the Foundation testified. And they did have a text that they talked to us and others about.

We are still just going through the text very carefully. I know that David Abramowitz had some problems with one of the measures, and you were prepared to offer an amendment.

Ms. LEE. I have an amendment to that.

Mr. SMITH OF NEW JERSEY. I know you do. We just want some additional time to study this text and make sure that all of the i's are dotted and the t's are crossed. So we will be looking at it further. I think it is matter of when and not if.

Ms. LEE. Well, Mr. Chairman, I thought we had accomplished that by today. So whatever those i's, whichever i's need dotting, we would like to dot. I guess I would ask is it possible to waive that out of the Subcommittee once we do do that and report it to the Full Committee?

Mr. SMITH OF NEW JERSEY. If we can come to a consensus, that would be fine. I want to spend some additional time. As Mr. Payne knows, as I know, every bill we do, we go through rewrites.

Ms. LEE. I understand that. It never would have been scheduled for today.

Mr. SMITH OF NEW JERSEY. We were trying to, in good faith, to move it as quickly as we can. But, again, it was only introduced yesterday.

Ms. LEE. Well, okay, Mr. Chairman. Let's see if we can do this, if possible, and get it done. We are certainly willing to do this amendment that we discussed and any other amendments that may make sense from your side. But we thought we had it resolved.

Mr. SMITH OF NEW JERSEY. Okay.

Mr. PAYNE. Mr. Chairman, I was also expecting it to come up at this time. I would just urge that the reading of the text and all of the concerns, that maybe they could perhaps be concluded maybe by week end, and if there is a possibility, even if we are going to have a Subcommittee meeting, that we have a special markup at that time.

I certainly feel that as Chairman you need to feel comfortable with the legislation. But if that could be done real quickly, then we would appreciate moving it, since the African Development Foundation has done an outstanding job and there is a dire need for the approval and the request for additional funding. Thank you.

Mr. SMITH OF NEW JERSEY. I think it should be very clear that we had representatives of the African Foundation testify at our hearing. I met with them after the hearing. They had a base text that they wanted us to consider. And I think Ms. Lee, you introduced—you went down to leg counsel, basically put it into that final form.

We just want to look at it carefully. I mean, I was thinking of introducing it myself. So it is not like we are talking—we are talking about something we just need to work further on. I would also say it has not been reauthorized for 25 years, which is 25 years too long. So we will work with you.

Ms. LEE. Thank you very much.

Mr. SMITH OF NEW JERSEY. Is there any other business before the Subcommittee? If not the Subcommittee is adjourned. I thank my colleagues for their participation.

[Whereupon, at 3 o'clock p.m., the Subcommittee was adjourned.]

