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Citation: 5 William H. Manz Federal Copyright Law The Histories of the Major Enactments of the 105th S12972 1999

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allies, develop sound policies, and then abide by them.

Mr. President, I thank the Chair.

EXECUTIVE SESSION

TREATIES

Mr. DEWINE. Mr. President, on behalf of the majority leader of the Senate, I ask unanimous consent that the Senate proceed to executive session to consider the following treaties on today's executive calendar: Numbers 24 through 54.

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

Mr. DEWINE. Mr. President, I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolution of ratification, that all committee provisos, reservations, understandings, and declarations be considered agreed to.

I further ask that two technical amendments that are at the desk to treaty documents 105-34 and 104-40 be considered as agreed to, that any statements be inserted in the CONGRESSIONAL RECORD as if read.

I further ask that there be one vote to count as individual votes on each of the treaties, and further, when the resolutions of ratification are voted upon, the motions to reconsider be laid upon the table, that the President then be notified of the Senate's action, and following the disposition of the treaties, the Senate return to legislative session.

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

The amendments read as follows:

AMENDMENT NO. 3840

(Purpose: To Make a Technical Correction to the Resolution of Ratification of the Treaty Between the United States of America and the Republic of Latvia on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 105-34)

On lines 5 and 6 of the Resolution of Ratification of the Treaty Between the United States of America and the Republic of Latvia on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 105-22), strike "and an exchange of notes signed on the same date".

AMENDMENT NO. 3841

(Purpose: To Make a Technical Correction to the Resolution of Ratification of the Treaty Between the Government of the United States of America and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 105-40)

On line 5 of the Resolution of Ratification of the Treaty Between the Government of the United States of America and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 105-22), strike "Tel Aviv" and insert "Jerusalem".

(The resolutions of ratification will be printed in a future edition of the RECORD.)

WIPO TREATIES

Mr. DEWINE. Mr. President, I am pleased to rise in support of the resolution of ratification of two treaties that are of unsurpassed importance to America's prospects in the global economy of the 21st century.

The World Intellectual Property Organization (WIPO) treaties are hardly the topics of everyday conversation in my home state of Ohio, or in any of my colleagues' home states. But they are critically important treaties. Every country that ratifies these treaties is required to update its laws against the piracy of copyrighted materials, and to extend those laws to the electronic commerce marketplace epitomized by the Internet. That outcome will be great news for Ohioans, and for all Americans.

American creativity is the envy of the world today. Our music, movies, computer software, video games and published materials are in great demand in almost every country in the world. In fact, taken as a whole, the industries dependent on copyrighted are our country's single biggest export earner, with an estimated $60 billion in exports and foreign sales in 1996. No wonder studies show that the creative industries are one of most dynamic sectors of our economy, accounting for some 3.5 million U.S. jobs.

The greatest single threat to this economic success story is piracy. New technology heightens this threat. The Internet and other digital media offer great potential for bringing the fruits of American creativity to new markets; but they also make it easier than ever before for pirates to make unlimited numbers of perfect copies of our creative works, and distribute them around the world—literally at the touch of a button.

That's where these two new treaties come in. By requiring countries to upgrade their copyright laws, and to update them for the digital age, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, provide critical new legal tools in the fight against piracy worldwide. That will help make overseas markets safer for the export of U.S. music, movies, software and books—and encourage the further growth of this key sector of our economy.

Ratification of the WIPO treaties advances another important goal—one that does not simply translate to dollars and cents. It helps to underscore the need for responsible conduct on the Internet. People who would never even consider shoplifting a CD or a videocassette from a store sometimes think the same rules about respecting private property should not apply in cyberspace. Ratifying these two treaties helps to dispel that illusion. That's good news, not only for the creative community—songwriters, performers, software designers, authors—but also for all our families as they explore the exciting new territory of the Internet.

Mr. President, as a member of the Judiciary Committee, I worked with my colleagues to hammer out the legislation needed to implement the standards of the WIPO treaties in U.S. law. Since our copyright law is already strong, only a few provisions had to be added—but, some provisions were contentious, and I am pleased that we were able to achieve a balanced, compromise solution that commanded almost unanimous support. That legislation, which also made other important improvements to our copyright law, is on its way to the President's desk, and I urge him to sign it.

Today's action complete the job, by authorizing the Administration to formally ratify the two treaties. It will also send a powerful message to our trading partners—some of whom must make many more extensive changes to their copyright laws in order to meet the standards of these treaties—that now is the time to move forward on this critical task.

I commend my colleagues in the Foreign Relations Committee for moving this measure to the Senate floor so promptly after the Senate's adoption of the . implementing legislation, and I urge my colleagues to support the resolution of ratification.

Mr. HAGEL. Mr. President, on September 10, 1998, in my role as Chairman of the Subcommittee on International Economic Policy, Export and Trade Promotion, I chaired the Foreign Relations Committee hearing on two important treaties that the Senate will ratify today. I refer to the World Intellectual Property Organization Copyright Treaty (WCT) and the World Intellectual Property Organization Performances and Phonograms Treaty (WPPT), collectively known as the WIPO Treaties, done at Geneva on December 20, 1996, and signed by the United States on April 12, 1997. These treaties will play a key role in assuring U.S. global competitiveness in the electronic commerce marketplace of the 21st century.

The purpose of the WIPO Treaties is to respond to the challenges of protecting copyrighted works, performances and sound recordings in the realm of digital technology. The adoption of these treaties represents a major step toward achieving adequate protection of intellectual property in the growing global economy. Bringing these treaties into effect will greatly facilitate global electronic commerce, and will facilitate exports and foreign sales of U.S. copyrighted materials in markets around the world.

In the hearing I chaired regarding the WIPO Treaties, the Foreign Relations Committee heard testimony from representatives of the Administration and from the information technology, telecommunications, and motion picture industries, including Jack Valenti, President and CEO of the Motion Picture Association of America, as well as from a coalition of educational and library interests. All the witnesses gave their overwhelming support for U.S. ratification of the WIPO Treaties. However, the main message that came from the hearing was that the WIPO Treaties needed to pass in conjunction

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with the corresponding implementation legislation that would update current U.S. copyright laws. We will have accomplished that task.

On October 8, 1998, the Senate unanimously passed the conference report to H.R. 2281, the Digital Millennium Copyright Act. This legislation will allow for the full implementation of the WIPO Treaties, by modifying current U.S. law in a few areas to meet the obligations imposed by the treaties and to ensure that liability questions are clearly defined in the treaties. U.S. copyright laws are strong and are vigorously enforced. However, these changes were needed to bring them up to date so U.S. law fell into compliance with the WIPO Treaties.

American creativity is the key to our competitiveness in this global economy. With so many industries in the United States protected by copyright—such as the computer software, music, recording, audio-visual and publishing industries—being among the most dynamic and fastest-growing sectors of the U.S. economy, it is important to protect these industries. In 1996, in a study commissioned by the International Intellectual Property Alliance, it was estimated that the U.S. creative industries contributed almost $280 billion to the Gross Domestic Product, and accounted for some 3.5 million jobs, surpassing any single manufacturing sector by both measures. Most important, the estimated $60 billion of foreign sales and exports by the U.S. copyright industries in 1996 made them the leading export sector of the entire economy. Consequently, the strength of legal protection in other countries for U.S. copyrighted materials is a key factor in promoting our global competitiveness.

The growth of digital networks such as the Internet offers an exciting opportunity for enhanced access by U.S. creators to world markets, but also presents a threat in the form of increased digital piracy of American works of authorship. The same technology that enables rapid and efficient authorized dissemination of U.S. copyrighted materials around the world also enables pirates to make and distribute perfect copies of these materials without authorization, more rapidly and efficiently then ever before, and with less risk of detection. Network-based digital piracy threatens to inflict losses on American creators that dwarf the estimated $18-20 billion which our creative industries now lose to overseas piracy every year. For these reasons, I plan to hold a hearing next year in my subcommittee on International Economic Policy, Export and Trade Promotion on the effects of software piracy on the U.S. economy as well as the global economy.

Given the leading role of the U.S. creative industries in the global trade in computer software, music and recordings, and published test materials, it is clearly in the U.S. national interest for the WIPO Treaties to come into force as soon as possible. Prompt U.S. ratification of the treaties will send a clear message to other countries and will provide critical momentum to the drive to bring the treaties into force.

I urge my colleagues to approve the Resolution of Ratification, and thus complete the process of giving the Senate's advice and consent to these two important treaties.

Mr. DEWINE. Mr. President, also on behalf of the majority leader, Senator LOTT, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the ratification of the treaties please stand and be counted. (After a pause.) Those opposed to the ratification will please stand and be counted.

On this vote, with two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

EXTENSION OF FISCAL YEAR 1999 VISA PROCESSING PERIOD

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4821, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4821) to extend into fiscal year 1999 the visa processing period for diversity applicants whose visa processing was suspended during fiscal year 1998 due to embassy bombings.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4821) was considered read the third time and passed.

INTERNATIONAL ANTI-BRIBERY ACT OF 1998

Mr. DEWINE. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2375) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the Senate amendments numbered 2 through 6 of the House amendment to the bill (S. 2375) entitled "An Act to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes", and agree the Senate amendment numbered 1 with the following amendment:

In lieu of the matter proposed to be stricken by such amendment strike line 8 on page 23 of the House engrossed amendments and all that follows through line 2 on page 25 and insert the following:

(c) EXTENSION OF LEGAL PROCESS.—

(1) IN GENERAL.—Except as required by international agreements to which the United States is a party, an international organization providing commercial communications services, its officials and employees, and its records shall not be accorded immunity from suit or legal process for any act or omission taken in connection with such organization's capacity as a provider, directly or indirectly, of commercial telecommunications services to, from, or within the United States.

(2) NO EFFECT ON PERSONAL LIABILITY.—Paragraph (1) shall not affect any immunity from personal liability of any individual who is an official or employee of an international organization providing commercial communications services.

(3) EFFECTIVE DATE.—This subsection shall take effect on May 1, 1999.

(d) ELIMINATION OR LIMITATION OF EXCEPTIONS.—

(1) ACTION REQUIRED.—The President shall, in a manner that is consistent with requirements in international agreements to which the United States is a party, expeditiously take all appropriate actions necessary to eliminate or to reduce substantially all privileges and immunities that are accorded to an international organization described in subparagraph (A) or (B) of subsection (a)(1), its officials, its employees, or its records, and that are not eliminated pursuant to subsection (c).

(2) DESIGNATION OF AGREEMENTS.—The President shall designate which agreements constitute international agreements to which the United States is a party for purposes of this section.

COLLOQUY ON S. 2375

Mr. D'AMATO. I am aware that the Senator from Montana has raised concerns regarding section 5 of the bill. Do the amendments considered by the Senate today satisfy your concerns?

Mr. SARBANES. If the Senator would yield, as the Ranking Democrat of the Senate Banking Committee, I would also like to know the views of the Senator from Montana.

Mr. BURNS. I thank my colleagues. Yes, the amendments do satisfy my concerns.

The amendments to the Foreign Corrupt Practices Act (FCPA) approved by the Senate today, to implement in the United States the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, are an important achievement in ensuring fair play for American companies doing business overseas. The value of this legislation for U.S. business fully justifies the action we are taking today. However, there are provisions in this bill that are unrelated to implementation of the

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