Congressional Record --- Extension of Remarks
Proceedings and Debates of the 102nd Congress, Second Session

Material in Extension of Remarks was not spoken by a Member on the floor.

In the House of Representatives
Tuesday, June 16, 1992

FREE TRADE IN IDEAS ACT OF 1992

HON. HOWARD L. BERMAN OF CALIFORNIA
Tuesday, June 16, 1992

Mr. BERMAN.

Mr. Speaker, I am pleased to introduce today the Free Trade in Ideas Act of 1992, and to be joined in this by my colleagues, Mr. HAMILTON, Mr. MILLER of Washington, Mr. GEJDENSON, Mr. PANETTA, Mr. MILLER of California, Mr. GONZALEZ, Mr. CONYERS, Mr. FRANK, Mr. WEISS, Mr. MCCLOSKEY, Mr. LEVINE of California, Mr. WAXMAN, Mr. KOSTMAYER, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. MINETA, Mr. KOPETSKI, Mr. ATKINS, Mr. NAGLE, and Mr. RANGEL.

The purpose of this legislation is to protect the right of Americans to travel abroad and to exchange information and ideas with foreigners. This bill would amend the Trading With the Enemy Act and the International Emergency Economic Powers Act, to ensure that the President's power to regulate economic relations with foreign countries is not used to inhibit communication with the people of those *E1857 countries. The fact that we disapprove of the government of a particular country ought not to inhibit our dialog with the people who suffer under those governments.

Bans on travel by U.S. citizens, and on other communicative activity, do not serve U.S. interests. Even at the height of the cold war, we did not prohibit travel to Eastern bloc countries. And when it came to other forms of communication, we positively promoted the exchange of literary and artistic work in an attempt to liberalize and open up the cultural and political climate in those countries. Recent events in the formerly Communist world suggest that contact with Americans and the exposure to American ideas were crucial to the momentous changes which are taking place there, to our great national advantage.

Moreover, consistent adherence to our own democratic principles is the surest way to promote our political values abroad. We are strongest and most influential when we embody the freedoms to which others aspire. There is a growing consensus that foreign policy goals should and can be pursued without infringing on the first amendment rights of Americans to impart and receive information and ideas. My amendment to the Omnibus Trade and Competitiveness Act of 1988 to allow the export and import of books and other informational materials, subject to protections for national security information, was enacted with bipartisan support in Congress, and with the imprimatur of the administration.

Nevertheless, the Treasury Department, which is charged with enforcement of
this law, has attempted to interpret it so as to limit the exchange of public information between Americans and foreigners. Moreover, the administration continues to use its economic embargo authority to effectively prohibit travel by Americans, at their own expense, to certain countries.

I firmly believe that the rights of Americans to travel and to communicate are basic liberties that ought not to be infringed for anything less than compelling national purposes. The negligible amount of money spent by Americans traveling abroad, and the insignificant sums of money that may be realized by foreign governments from trade in books, works of art, and other informational materials, cannot be a valid reason for curtailing the rights of Americans, or for cutting off the flow of ideas to captive peoples who are starved of contact with the larger world of ideas and information.

I urge my colleagues to support this measure, and to ensure its swift approval by the House.

The provisions of the bill are summarized below:

SUMMARY OF THE BILL

SECTION 1. SHORT TITLE

Section 2. Exchange of Information and Related Transactions

Section 2 (a) amends the International Emergency Economic Powers Act (IEEPA) to prohibit restraints on exchanges of information or information materials.

Section 2 (b) amends the Export Administration Act of 1979 (EAA) to the same effect.

Section 2 continues the exception under current law to allow national security controls under Section 5 of the Export Administration Act.

This section is necessary to clarify the intent of Congress in adopting the Berman amendment to the Omnibus Trade and Competitiveness Act of 1988 (Section 2502 of Public Law 100-418) That provision provided protection from embargoes for materials protected by the First Amendment of the U.S. Constitution. The Executive branch has interpreted the 1988 provision narrowly, to exclude many informational and artistic materials. That has resulted in litigation, with results adverse to the Administration position. Nevertheless, delays resulting from attempts to restrict information exchanges have effectively prevented the free flow of information which was contemplated by the 1988 provision. Section 2 makes clear and explicit that all First Amendment protected materials and activities, including paintings, telecommunications, and travel necessary for trade in information, are within the ambit of the statute’s protection.

SECTION 3. FREEDOM OF TRAVEL FOR U.S. CITIZENS.

Amends IEEPA and TWEA to ensure that U.S. citizens are not prevented from traveling abroad at their own expense. This section would not curtail the executive branch’s power to restrict use of U.S. passports when travel to a particular country poses a danger to Americans.

SECTION 4. EDUCATIONAL, CULTURAL, AND SCIENTIFIC EXCHANGES.

Amends IEEPA and TWEA to prohibit restrictions on academic, cultural, and
scientific exchanges, except to the extent that they might result in the evasion of national security controls under Section 5 of the Export Administration Act.

SECTION 5. ESTABLISHMENT OF NEWS BUREAUS.

Amends IEEPA and TWEA to ensure that bureaus of U.S. news organizations may be established in embargoed countries, and that foreign news organizations may establish news bureaus in the U.S.


Amends the Foreign assistance act to ensure that it is not used to restrict the activities which are freed from restriction by Section 2 through 5 of this bill.

SECTION 7. UNITED NATIONS PARTICIPATION ACT.

Amends the U.N. Participation Act to ensure that it is not used to restrict activities which may not be restricted under the International Emergency Economic Powers Act (IEEPA), as amended by this bill.

SECTION 8. APPLICABILITY.

Provides that the protections established by this bill apply to embargoes currently in effect as well as to future embargoes.

In order to ensure that no prejudice results to the interests of American parties to disputes with the Cuban government over compensation for nationalized property, this section also provides that the amendments made by this bill do not alter the status of assets already blocked pursuant to the Trading With the Enemy Act, or the Foreign Assistance Act.


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