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COMMITTEE ON INTERNATIONAL RELATIONS

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RELATED EXECUTIVE ORDERS

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U.S. HOUSE OF REPRESENTATIVES

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FOREWORD

This volume of legislation and related material is part of a five volume set of laws and related material frequently referred to by the Committees on International Relations of the House of Representatives and Foreign Relations of the Senate, amended to date and annotated to show pertinent history or cross references.

Volumes I (A and B), II, III and IV contain legislation and related material and are republished with amendments and additions at the end of each annual session of Congress. Volume V, which contains treaties and related material, will not be revised every year, but only as necessary.

We wish to express our appreciation to Dianne E. Rennack and C. Winston Woodland of the Foreign Affairs and National Defense Division of the Congressional Research Service of the Library of Congress who prepared volume I–B of this year's compilation.

JESSE HELMS,
Chairman, Committee on Foreign Relations.

BENJAMIN A. GILMAN,
Chairman, Committee on International Relations.

EXPLANATORY NOTE

All public laws included in this volume are codified and in force through the end of the first session of the 105th Congress. The texts of the public laws in this volume are printed as they appear in the United States Statutes at Large rather than the United States Code. Amendments are incorporated into the text and distinguished by a footnote.

All Executive orders and State Department delegations of authority are codified and in force as of January 31, 1998.

ABBREVIATIONS

Bevans	Treaties and Other International Agreements of the United States of America, 1776–1949, compiled under the direction of Charles I. Bevans.
CFR	Code of Federal Regulations.
EAS	Executive Agreement Series.
F.R	Federal Register.
LNTS	League of Nations Treaty Series.
I Malloy, II Malloy	Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1776–1909, compiled under the direction of the United States Senate by William M. Malloy.
Stat	United States Statutes at Large.
TIAS	Treaties and Other International Acts Series.
TS	Treaty Series.
UNTS	United Nations Treaty Series.
U.S.C	United States Code.
UST	United States Treaties and Other International Agreements.

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1. Other Foreign Assistance Related Legislation and Materials

a. Policy Toward Iraq[1]

(1) Iran-Iraq Arms Non-Proliferation Act of 1992

Title XVI of the National Defense Authorization Act for Fiscal Year 1993 [Public Law 102–484; H.R. 5006], 106 Stat. 2315 at 2571, approved October 23, 1992; amended by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996

TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992[2]

SEC. 1601. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 1602. UNITED STATES POLICY.

(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could materially contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, chapter 7 of the Arms Export Control Act, and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

---

[1] See also sanctions imposed against Iraq, in *Legislation on Foreign Relations Through 1997*, vol. III. See also various National Defense Authorization Acts, beginning at page 444. See also the Authorization for Use of Military Force Against Iraq Resolution, Public Law 102–1, in *Legislation on Foreign Relations Through 1997*, vol. II.

[2] 50 U.S.C. 1701 note. In a September 27, 1994, memorandum for the Secretary of State, the President delegated all functions vested in the President by this title to the Secretary of State, in consultation with the Secretaries of Defense, Treasury, Commerce, the Director of the Arms Control and Disarmament Agency, and other heads of appropriate departments and agencies (59 F.R. 50685).

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1607) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

SEC. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513),[3] including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[4] to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a) are as follows:

(1) PROCUREMENT SANCTION.—For a period of two years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of two years, the United States Government shall not issue any license for any export by or to the sanctioned person.

SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[5] to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanction described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of one year, United States assistance to the sanctioned country.

---

[3] For text of the Iraq Sanctions Act of 1990, see beginning at page 26.

[4] Sec. 1408(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494), inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

[5] Sec. 1408(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of one year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of one year.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is as follows:

(1) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Except as provided in paragraph (2), the President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to urgent humanitarian assistance.

SEC. 1606. WAIVER.

The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[6] of the House of Representatives that it is essential to the national interest of the United States to exercise such waiver authority. Any

[6] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

such report shall provide a specific and detailed rationale for such determination.

SEC. 1607. REPORTING REQUIREMENT.

(a) ANNUAL REPORT.—Beginning one year after the date of the enactment of this Act, and every 12 months thereafter, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[6] of the House of Representatives a report detailing—

(1) all transfers or retransfers made by any person or foreign government during the preceding 12–month period which are subject to any sanction under this title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[6] of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 1608. DEFINITIONS.

For purposes of this title:

(1) The term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title.

(2) The term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag.

(3) The term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

(4) The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries.

(5) The term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1605.

(6) The term "sanctioned person" means a person that makes a transfer described in section 1604(a).

(7) The term "United States assistance" means—

(A)[7] any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than urgent humanitarian assistance or medicine.

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

[7] Sec. 1408(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) amended and restated subpara. (A). It formerly read as follows:

"(A) any assistance under the Foreign Assistance Act of 1961, other than—

"(i) urgent humanitarian assistance or medicine, and

"(ii) assistance under chapter 11 of part I (as enacted by the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992);".

(2) Foreign Assistance Appropriations Act, 1998—Provisions Relating to Iraq[1]

Partial text of Public Law 105–118 [H.R. 2159], 111 Stat. 2386, approved November 26, 1997

An ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507.[2] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

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PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523.[3] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

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[1] For full text of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[2] Similar language was first enacted as sec. 111 of the Foreign Assistance Appropriations Act, 1974. The Foreign Operations, Export Financing, and Related Programs Act, 1990 (Public Law 101–167; 103 Stat. 2268), added two provisos, the first of which has been continued in subsequent years.

[3] On January 28, 1998, the President certified that "withholding from international financial institutions and other international organizations and programs funds appropriated or otherwise made available persuant to [this] Act is contrary to the national interest of the United States." (Presidential Determination No. 98–12; 63 F.R. 6469).

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 534.[4] None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

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[4] 50 U.S.C. 1701 note. Language similar to that in this section was first enacted as sec. 586D(a) of the Foreign Assistance Appropriations Act, 1991 (part of the Iraq Sanctions Act of 1990—secs. 586–586J of the Foreign Assistance Appropriations Act, 1991). The section, as it was continued in annual foreign assistance appropriations acts, was expanded to include Serbia and Montenegro during fiscal years 1995 through 1997.

Sec. 586D(b) of the Foreign Assistance Appropriations Act, 1991, and subsequent foreign assistance appropriations acts through fiscal year 1997, authorized the President to prohibit importation into the United States of any or all products of any foreign country that had not prohibited exports to or imports from Iraq. Serbia and Montenegro were added to this language for fiscal years 1995 through 1997.

(3) Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991

Partial text of Public Law 102–25 [S. 725], 105 Stat. 75, approved April 6, 1991; as amended by Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993; 105 Stat. 1508], 105 Stat. 1290, approved December 5, 1991; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; and by Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995

AN ACT Entitled the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991".

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

SECTION 1.[1] SHORT TITLE

This Act may be cited as the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991".

SEC. 2.[2] TABLE OF CONTENTS * * *

SEC. 3.[1] DEFINITIONS

For the purposes of this Act:

(1) The term "Operation Desert Storm" means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort).[3]

(2) The term "incremental costs associated with Operation Desert Storm" means costs referred to in section 251(b)(2)(D)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(ii)).

(3) The term "Persian Gulf conflict" means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

(4) The term "congressional defense committees" has the meaning given that term in section 3 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1498).

SEC. 4. CONSTRUCTION WITH PUBLIC LAW 101–510.

Any authorization of appropriations, or authorization of the transfer of authorizations of appropriations, made by this Act is in addition to the authorization of appropriations, or the authority to make transfers, provided in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510).

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[1] 10 U.S.C. 101 note.

[2] For full text, see 105 Stat. 75.

[3] Sec. 1203 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1508) struck out "Operation Desert Shield and Operation Desert Storm" and inserted in lieu thereof "Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort".

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

SEC. 101.[4] FUNDS IN THE DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION OF APPROPRIATION.—During fiscal years 1991, 1992, and 1993,[5] there is authorized to be appropriated to the Department of Defense current and future balances in the Defense Cooperation Account established under section 2608 of title 10, United States Code.

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for—

(1) transfer by the Secretary of Defense to fiscal years 1991, 1992, and 1993[5] appropriation accounts of the Department of Defense or Coast Guard for incremental costs associated with Operation Desert Storm; and

(2) replenishment of the Persian Gulf Regional Defense Fund created under section 102.

SEC. 102. PERSIAN GULF REGIONAL DEFENSE FUND[6]

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury of the United States a working capital account for the De-

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[4] Secs. 1202, 1203, and 1204 of Public Law 102–484 (106 Stat. 2542) provided the following:

"SEC. 1202. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1992 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b)(1) of such section, the sum of $429,000,000 for military personnel as follows:

"(1) ARMY.—For the Army, $399,000,000.

"(2) NAVY.—For the Navy, $30,000,000.

"(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1992 AUTHORIZATIONS.—The total amount of the transfer authority provided for the Secretary of Defense for fiscal year 1992 in Public Law 102–190 or any other Act is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by section 1201.

"SEC. 1203. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1993 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b) of such section, the sum of $87,700,000 for military personnel as follows:

"(1) ARMY.—For the Army, $29,300,000.

"(2) NAVY.—For the Navy, $35,300,000.

"(3) MARINE CORPS.—For the Marine Corps, $3,100,000.

"(4) AIR FORCE.—For the Air Force, $20,000,000.

"(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1993 AUTHORIZATIONS.—The amount of the transfer authority provided in section 1001 is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1993 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by section 1201."

"SEC. 1204. RELATIONSHIP TO OTHER AUTHORIZATIONS.

"The authorizations of appropriations in sections 1202 and 1203 are in addition to the amounts otherwise authorized to be appropriated to the Department of Defense for fiscal year 1992 and for fiscal year 1993 by any other provision of this Act or by any other Act enacted before the date of the enactment of this Act.".

[5] Sec. 1201(a) of Public Law 102–190 (105 Stat. 1506) struck out "fiscal year 1991" each place it appeared in secs. 101 and 102, and inserted in lieu thereof "fiscal years 1991 and 1992".

Subsequently, sec. 1201 of Public Law 102–484 (106 Stat. 2542) struck out "fiscal years 1991 and 1992" each place it appeared in secs. 101, 102(c) and 106, and inserted in lieu thereof "fiscal years 1991, 1992, and 1993".

[6] Sec. 1201(d)(1) of Public Law 102–190 (105 Stat. 1506) amended secs. 102 and 203(b) to read "Persian Gulf Regional Defense Fund" in lieu of "Persian Gulf Conflict Working Capital Account", each place it appeared.

Sec. 1201(d)(2) of that Act made similar technical amendments in secs. 101(b)(2), 102(d), and 105(b)(4), by striking out " working capital account" each place it appeared and inserting in lieu thereof "Persian Gulf Regional Defense Fund".

Continued

partment of Defense to be known as the "Persian Gulf Regional Defense Fund".[6]

(b) AUTHORIZATION OF APPROPRIATIONS.—During fiscal years 1991 and 1992,[5] there is authorized to be appropriated to the Persian Gulf Regional Defense Fund[6] the sum of $15,000,000,000.

(c) USE OF FUNDS.—Funds appropriated pursuant to subsection (b) shall be available only for transfer by the Secretary of Defense to fiscal years 1991, 1992, and 1993[5] appropriation accounts of the Department of Defense or Coast Guard for the incremental costs associated with Operation Desert Storm. Such funds may be used for that purpose only to the extent that funds are not available in the Defense Cooperation Account for transfer for such incremental costs.

(d) REPLENISHMENT OF ACCOUNT.—Amounts transferred from the Persian Gulf Regional Defense Fund[6] shall be replenished from funds available in the Defense Cooperation Account to the extent that funds are available in the Defense Cooperation Account. Whenever the balance in the Persian Gulf Regional Defense Fund[6] is less than the amount appropriated to that account pursuant to this section, the Secretary shall transfer from the Defense Cooperation Account such funds as become available to the account to replenish the Persian Gulf Regional Defense Fund[6] before making any transfer of such funds under sections 101 and 102.

(e) REVERSION OF BALANCE UPON TERMINATION OF ACCOUNT.—Any balance in the Persian Gulf Regional Defense Fund[6] at the time of the termination of the account shall revert to the general fund of the Treasury.

SEC. 103. ADDITIONAL TRANSFER AUTHORITY

The amount of the transfer authority provided in section 1401 of Public Law 101–510 is hereby increased by the amount of such transfers as the Secretary of Defense makes pursuant to law (other than Public Law 101–511) to make adjustments among amounts provided in titles I and II of Public Law 101–511 due to incremental costs associated with Operation Desert Storm.

SEC. 104. ADMINISTRATION OF TRANSFERS

A transfer made under the authority of section 101 or 102 increases by the amount of the transfer the amount authorized for the account to which the transfer is made.

SEC. 105.[7] NOTICE TO CONGRESS OF TRANSFERS

(a) NOTICE-AND-WAIT.—A transfer may not be made under section 101 or 102 until the seventh day after the congressional defense committees receive a report with respect to that transfer under subsection (b).

Public Law 102–368 (106 Stat. 1124) subsequently terminated the Persian Gulf Regional Defense Fund with the following:

"PERSIAN GULF REGIONAL DEFENSE FUND

"(RESCISSION)

"Of the funds made available under this heading in the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102–28; 105 Stat. 161), $14,696,040,000 is hereby rescinded: *Provided*, That the Persian Gulf Regional Defense Fund is hereby terminated.".

[7] Sec. 1201(b) of Public Law 102–190 (105 Stat. 1506) made this section applicable only to appropriations provided in Public Law 102–28.

(b) CONTENT OF REPORT.—A report under subsection (a) shall include the following:

(1) A certification by the Secretary of Defense that the amount or amounts proposed to be transferred will be used only for incremental costs associated with Operation Desert Storm.

(2) A statement of each account to which the transfer is proposed to be made and the amount proposed to be transferred to such account.

(3) A description of the programs, projects, and activities for which funds proposed to be transferred are proposed to be used.

(4) In the case of a transfer from the Persian Gulf Regional Defense Fund[6] established under section 102, an explanation of the reasons why funds are not available in the Defense Cooperation Account for such transfer.

SEC. 106. MONTHLY REPORTS ON TRANSFERS

Not later than seven days after the end of each month in fiscal years 1991, 1992, and 1993,[5] the Secretary of Defense shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on the cumulative total amount of the transfers made under the authority of this title through the end of that month.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

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SEC. 203. AUTHORIZATION FROM DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION.—In addition to authorizations under section 101, there is hereby authorized to be appropriated from the Defense Cooperation Account such sums as may be necessary for increases in military personnel costs for fiscal years 1991 through 1995 resulting from the exercise of the authorities provided in section 201. Such increases in costs are incremental costs associated with Operation Desert Storm.

(b) USE OF FUNDS.—Funds appropriated to the Persian Gulf Regional Defense Fund[6] pursuant to section 102(b) may be used for the purposes described in subsection (a) to the extent provided in section 102(c).

(c) REPORTING.—Funds obligated for the purposes described in subsection (a) shall be included in the reports required by section 106.

SEC. 204. CONFORMING REPEAL

Section 1117 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1637)[8] is repealed.

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[8] 10 U.S.C. 115 note. Sec. 1117 of Public Law 101–510, relating to end strength flexibility, may be found at 104 Stat. 1637.

TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM[9]

SEC. 401. REPORTS ON UNITED STATES COSTS IN THE PERSIAN GULF CONFLICT AND FOREIGN CONTRIBUTIONS TO OFFSET SUCH COSTS

(a) REPORTS REQUIRED.—The Director of the Office of Management and Budget shall prepare, in accordance with this section, periodic reports on the incremental costs associated with Operation Desert Storm and on the amounts of contributions made to the United States by foreign countries to offset those costs. The Director shall prepare the reports in consultation with the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, and other appropriate Government officials.

(b) COSTS OF OPERATION DESERT STORM.—

(1) PERIOD COSTS AND CUMULATIVE COSTS.—Each report prepared under subsection (a) shall specify—

(A) the incremental costs associated with Operation Desert Storm that were incurred during the period covered by the report; and

(B) the cumulative total of such costs, by fiscal year, from August 1, 1990, to the end of the period covered by the report.

(2) NONRECURRING COSTS AND COSTS OFFSET.—In specifying the incremental costs associated with Operation Desert Storm that were incurred during the period covered by a report and the total of such costs, the Director shall separately identify those costs that—

(A) are nonrecurring costs;

(B) are offset by in-kind contributions; or

(C) are offset (or proposed to be offset) by the realignment, reprogramming, or transfer of funds appropriated for activities unrelated to the Persian Gulf conflict.

(c) SPECIFIC COST AREAS.—Each report prepared under subsection (a) on the incremental costs associated with Operation Desert Storm shall specify an allocation of the total amount of such costs among the military departments, the Defense Agencies of the Department of Defense, and the Office of the Secretary of Defense, by category, including the following categories:

(1) AIRLIFT.—Airlift costs related to the transportation by air of personnel, equipment, and supplies.

(2) SEALIFT.—Sealift costs related to the transportation by sea of personnel, equipment, and supplies.

(3) PERSONNEL.—Personnel costs, including pay and allowances of members of the reserve components of the Armed Forces called or ordered to active duty and increased pay and allowances of members of the regular components of the Armed Forces incurred because of deployment in connection with Operation Desert Storm.

(4) PERSONNEL SUPPORT.—Personnel support costs, including subsistence, uniforms, and medical costs.

(5) OPERATING SUPPORT.—Operating support costs, including equipment support costs, costs associated with increased oper-

[9] 10 U.S.C. 113 note.

ational tempo, spare parts, stock fund purchases, communications, and equipment maintenance.

(6) FUEL.—Fuel costs.

(7) PROCUREMENT.—Procurement costs, including ammunition, weapon systems improvements and upgrades, and equipment purchases.

(8) MILITARY CONSTRUCTION.—Military construction costs.

(d) CONTRIBUTIONS TO THE UNITED STATES.—

(1) AMOUNT OF CONTRIBUTIONS.—Each report prepared under subsection (a) shall specify the amount of contributions made to the United States by each foreign country that is making contributions to defray the cost to the United States of Operation Desert Storm. The amount of each country's contribution during the period covered by each report, as well as the cumulative total of such contributions made before the date of the report, shall be indicated as follows:

(A) Cash payments pledged.

(B) Cash payments received.

(C) Description and value of in-kind contributions pledged.

(D) Description and value of in-kind contributions received.

(2) PLEDGE PERIOD AND USE RESTRICTIONS.—In specifying the amount of each contribution pledged, the Director shall indicate—

(A) the time period, if any, for which that contribution applies; and

(B) any restrictions on the use of that contribution.

(e) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report required by subsection (a) shall be submitted to the Congress not later than 14 days after the date of the enactment of this Act and shall cover the period beginning on August 1, 1990, and ending on December 31, 1990.

(2) SECOND REPORT.—The second report shall be submitted to the Congress not later than 21 days after the date of the enactment of this Act and shall cover—

(A) January and February 1991, with respect to information required under subsections (b) and (c); and

(B) January, February, and March 1991, with respect to information required under subsection (d).

(3) SUBSEQUENT MONTHLY REPORTS.—A report shall be submitted to Congress not later than the 15th day of each month after April 1991 and shall cover—

(A) the month before the preceding month, in the case of information required under subsections (b) and (c); and

(B) the preceding month, in the case of information required under subsection (d).

(4) FINAL REPORT.—The final report shall be submitted not later than November 15, 1992, and shall include—

(A) the information required under subsections (b) and (c) relating to the month of September 1992; and

(B) a summary of all information that was included in reports submitted under this section.

SEC. 402. REPORTS ON FOREIGN CONTRIBUTIONS IN RESPONSE TO THE PERSIAN GULF CRISIS

(a) REPORTS REQUIRED.—The Secretary of State and the Secretary of the Treasury shall jointly prepare periodic reports on the contributions made by foreign countries as part of the international response to the Persian Gulf crisis. The Secretaries shall prepare the reports in consultation with the Secretary of Defense and other appropriate Federal Government officials.

(b) INFORMATION TO BE PROVIDED.—Each report required by this section shall include the following information for each foreign country making contributions as part of the international response to the Persian Gulf crisis:

(1) PARTICIPATION IN THE INTERNATIONAL MILITARY COALITION.—In the case of each foreign country whose armed forces are participating in the international military coalition confronting Iraq, a description of the forces committed in terms of personnel, units, and equipment deployed, and any information available regarding the aggregate amount of the incremental costs associated with such country's participation.

(2) CONTRIBUTIONS TO THOSE COUNTRIES SIGNIFICANTLY AFFECTED BY THE PERSIAN GULF CRISIS.—Any information available on—

(A) any additional special assistance (financial, in-kind, or host-country support) pledged as a contribution to each of those countries significantly affected by the Persian Gulf crisis; and

(B) the value and a description of the types of such assistance received by each such country.

The information provided pursuant to this paragraph shall include information on such assistance as reported to the Gulf Crisis Financial Coordination Group.

(3) CONTRIBUTIONS TO OTHER MILITARY FORCES.—The value and nature of any assistance (financial, in-kind, or host-country support) made to each foreign country referred to in paragraph (1), other than the United States, to defray costs of military operations conducted by the armed forces of such foreign country in connection with Operation Desert Storm.

(4) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—Any information available on the value and nature of contributions pledged—

(A) to any United Nations organization,

(B) to the International Committee of the Red Cross, and

(C) to the extent the Secretary of State considers appropriate, to other international or nongovernmental organizations, for the purpose of dealing with consequences of the Persian Gulf crisis (including contributions for such purposes as furnishing humanitarian assistance for displaced persons or furnishing assistance for responding to oil spills), and the value and nature of such contributions received by each such organization.

(5) OTHER FORMS OF CONTRIBUTIONS.—A description of international agreements entered into by the United States as a result of the Persian Gulf crisis, and a description of prepositioning rights, base or other military facilities access

rights, or air transit rights granted to the United States as a result of the Persian Gulf crisis.

(6) CONTRIBUTIONS TO OTHER FOREIGN COUNTRIES.—Any information available on the types of any additional assistance (financial, in-kind, or host-country support) pledged and received as a contribution to other foreign countries as a result of the Persian Gulf crisis.

(7) CUMULATIVE TOTALS.—Each report submitted pursuant to subsection (c) shall include cumulative totals for, and any information available on the aggregate value of, the contributions that have been pledged, and the contributions that have been paid or otherwise delivered, by each foreign country as of the end of the calendar quarter covered by that report.

(c) SUBMISSION OF REPORTS.—

(1) TIME FOR SUBMISSION, PERIOD COVERED.—(A) A report prepared pursuant to subsection (a) shall be submitted to the Congress not later than 30 days after the date of the enactment of this Act with respect to the contributions pledged and the contributions paid or otherwise delivered during the period beginning on August 1, 1990, and ending on December 31, 1990.

(B) A report prepared pursuant to subsection (a) shall be submitted to the Congress not later than 30 days after the date of the enactment of this Act with respect to the contributions pledged and the contributions paid or otherwise delivered during the period beginning on January 1, 1991, and ending on March 31, 1991.

(C) Subsequent reports prepared pursuant to subsection (a) shall be submitted to the Congress not later than the 15th day after the end of each calendar quarter in 1991 with respect to the contributions pledged and the contributions paid or otherwise delivered during that calendar quarter.

(D) A final report shall be submitted to the Congress not later than November 15, 1992, and shall contain a summary of all information relating to the contributions pledged and the contributions paid or otherwise delivered that was included in reports submitted under this paragraph.

(d) DEFINITIONS.—In this section:

(1) The term "countries significantly affected by the Persian Gulf crisis" means Egypt, Jordan, Turkey, and Israel, and any other country whose economy the President determines is significantly affected by the Persian Gulf crisis.

(2) The term "Persian Gulf crisis" means the military conflict, the United Nations Security Council embargo against Iraq, and other consequences associated with Iraq's invasion and occupation of Kuwait and its failure to comply with the resolutions of the Security Council.

(3) The term "Gulf Crisis Financial Coordination Group" means the organization established by the President on September 25, 1990 for coordinating economic assistance in response to the Persian Gulf crisis.

SEC. 403. FORM OF REPORTS

The reports required to be submitted to the Congress pursuant to this title shall be submitted in unclassified form to the extent practicable, with a classified annex if necessary.

TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

SEC. 501. DEPARTMENT OF DEFENSE REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

(a) REPORT REQUIRED.—Not later than January 15, 1992, the Secretary of Defense shall submit to the congressional defense committees a report on the conduct of the hostilities in the Persian Gulf theater of operations. The Secretary shall submit to such committees a preliminary report on the conduct of those hostilities not later than July 1, 1991. The report (including the preliminary report) shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff and the Commander in Chief, United States Central Command.

(b) DISCUSSION OF ACCOMPLISHMENTS AND SHORTCOMINGS.—The report (and the preliminary report, to the extent feasible) shall contain a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters:

(1) The military objectives of the multinational coalition.

(2) The military strategy of the multinational coalition to achieve those military objectives and how the military strategy contributed to the achievement of those objectives.

(3) The deployment of United States forces and the transportation of supplies to the theater of operations, including an assessment of airlift, sealift, afloat prepositioning ships, and Maritime Prepositioning Squadron ships.

(4) The conduct of military operations.

(5) The use of special operations forces, including operational and intelligence uses classified under special access procedures.

(6) The employment and performance of United States military equipment, weapon systems, and munitions (including items classified under special access procedures) and an analysis of—

(A) any equipment or capabilities that were in research and development and if available could have been used in the theater of operations; and

(B) any equipment or capabilities that were available and could have been used but were not introduced into the theater of operations.

(7) The scope of logistics support, including support from other nations, with particular emphasis on medical support provided in the theater of operations.

(8) The acquisition policy actions taken to support the forces in the theater of operations.

(9) The personnel management actions taken to support the forces in the theater of operations.

(10) The role of women in the theater of operations.

(11) The effectiveness of reserve component forces, including a discussion of each of the following matters:

(A) The readiness and activation of such forces.

(B) The decisionmaking process regarding both activation of reserve component forces and deployment of those forces to the theater of operations.

(C) The post-activation training received by such forces.

(D) The integration of forces and equipment of reserve component forces into the active component forces.

(E) The use and performance of the reserve component forces in operations in the theater of operations.

(F) The use and performance of such forces at duty stations outside the theater of operations.

(12) The role of the law of armed conflict in the planning and execution of military operations by United States forces and the other coalition forces and the effects on operations of Iraqi compliance or noncompliance with the law of armed conflict, including a discussion regarding each of the following matters:

(A) Taking of hostages.

(B) Treatment of civilians in occupied territory.

(C) Collateral damage and civilian casualties.

(D) Treatment of prisoners of war.

(E) Repatriation of prisoners of war.

(F) Use of ruses and acts of perfidy.

(G) War crimes.

(H) Environmental terrorism.

(I) Conduct of neutral nations.

(13) The actions taken by the coalition forces in anticipation of, and in response to, Iraqi acts of environmental terrorism.

(14) The contributions of United States and coalition intelligence and counterintelligence systems and personnel, including contributions regarding bomb damage assessments and particularly including United States tactical intelligence and related activities (TIARA) programs.

(15) Command, control, communications, and operational security of the coalition forces as a whole, and command, control, communications, and operational security of the United States forces.

(16) The rules of engagement for the coalition forces.

(17) The actions taken to reduce the casualties among coalition forces caused by the fire of such forces.

(18) The role of supporting combatant commands and Defense Agencies of the Department of Defense.

(19) The policies and procedures relating to the media, including the use of media pools.

(20) The assignment of roles and missions to the United States forces and other coalition forces and the performance of those forces in carrying out their assigned roles and missions.

(21) The preparedness, including doctrine and training, of the United States forces.

(22) The acquisition of foreign military technology from Iraq, and any compromise of military technology of the United States or other countries in the multinational coalition.

(23) The problems posed by Iraqi possession and use of equipment produced in the United States and other coalition nations.

(24) The use of deception by Iraqi forces and by coalition forces.

(25) The military criteria used to determine when to progress from one phase of military operations to another phase of military operations, including transition from air superiority operations to operations focused on degrading Iraqi forces, transition to large-scale ground offensive operations, and transition to cessation of hostilities.

(26) The effects on the conduct of United States military operations resulting from the implementation of the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

(c) CASUALTY STATISTICS.—The report (and the preliminary report, to the extent feasible) shall also contain (1) the number of military and civilian casualties sustained by coalition nations, and (2) estimates of such casualties sustained by Iraq and by nations not directly participating in the hostilities in the Persian Gulf area during the Persian Gulf Conflict.

(d) CLASSIFICATION OF REPORTS.—The Secretary of Defense shall submit both the report and the preliminary report in a classified form and an unclassified form.

TITLE VI—GENERAL PROVISIONS

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SEC. 606. SENSE OF CONGRESS CONCERNING BUSINESSES SEEKING TO PARTICIPATE IN THE REBUILDING OF KUWAIT

(a) FINDINGS.—The Congress finds as follows:

(1) The Armed Forces of the United States, together with allied forces, have successfully liberated Kuwait and have restored the independence of that nation.

(2) During the occupation of Kuwait by Iraq, much damage was done to the infrastructure, environment, and industrial capacity of Kuwait, and rebuilding of Kuwait is desperately needed.

(3) The principal test of a nation's commitment to the liberation of Kuwait in the Persian Gulf conflict was its willingness to provide military forces for the liberation of Kuwait.

(4) United States firms, including small and minority-owned businesses, have expressed a significant interest in participating in the rebuilding of Kuwait.

(5) Small and minority-owned businesses face inherent difficulties in competing in foreign markets and in obtaining a share of contracts from foreign governments, particularly those contracts that are performed in distant parts of the world.

(b) SENSE OF CONGRESS CONCERNING SOURCE SELECTION FOR KUWAIT CONTRACTS.—It is the sense of Congress that the Army Corps of Engineers and other Federal agencies should award contracts for the rebuilding of Kuwait, and, in recommending business firms to the Government of Kuwait for the award by it of such contracts, should encourage the Government of Kuwait to award such contracts, in accordance with the following priority:

(1) First, to United States firms, including small and minority-owned businesses, that are committed to employing United States workers under the contract.

(2) Second, to other United States firms.

(3) Then, to firms from allied nations that committed military forces to the liberation of Kuwait during the Persian Gulf conflict.

(c) SENSE OF CONGRESS CONCERNING SELECTION OF SUBCONTRACTORS FOR KUWAIT CONTRACTS.—It is the sense of Congress that, when making recommendations to any contractor awarded a contract referred to in subsection (b) concerning the selection of firms for subcontracts under such contract, the Army Corps of Engineers shall encourage the contractor to select a firm or firms for the subcontract in accordance with the priority set out in subsection (b).

(d) SENSE OF CONGRESS CONCERNING EMPLOYEES UNDER KUWAIT REBUILDING CONTRACTS.—It is the sense of Congress that any United States firm that receives a contract pertaining to the rebuilding of Kuwait—

(1) should employ United States citizens to carry out the contract; and

(2) should provide a preference to veterans of the Armed Forces in hiring for work on the contract.

(e) SENSE OF CONGRESS CONCERNING SMALL AND MINORITY-OWNED BUSINESS PARTICIPATION IN KUWAIT REBUILDING CONTRACTS.—It is the sense of Congress that—

(1) the President, acting through the appropriate Government agencies (including particularly the agencies that will be engaged in source selections or source recommendations as described in subsection (b)), should take steps to provide assistance to United States small and minority-owned businesses seeking to be awarded contracts as part of the rebuilding of Kuwait;

(2) the Administrator of the Small Business Administration and other appropriate Federal officials should conduct a public information campaign to advise small and minority-owned business firms with respect to contracts for the rebuilding of Kuwait; and

(3) United States firms that are awarded contracts pertaining to the rebuilding of Kuwait should, to the maximum extent practicable, seek to award subcontracts for such contracts to United States small and minority-owned business firms.

(f)[10] * * * [Repealed—1995]

SEC. 607. SENSE OF CONGRESS REGARDING USE OF UNITED STATES FUNDS FOR REBUILDING IRAQ

It is the sense of Congress that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

SEC. 608.[11] WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL OF NONPAYING PLEDGING NATIONS

(a) GENERAL RULE.—Effective as of the end of the six-month period beginning on the date of the enactment of this Act, the Sec-

[10] Sec. 1021(c) of Public Law 104–66 (109 Stat. 707) repealed subsec. (f), which had required the President to report to Congress every four months on contracting for the rebuilding of Kuwait.

[11] 10 U.S.C. 113 note.

retary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

(b) NONPAYING PLEDGING NATION DEFINED.—For purposes of this section, the term ''nonpaying pledging nation'' means a foreign nation that has pledged to the United States that it will make contributions to assist the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

(c) RELEASE OF WITHHELD AMOUNTS.—When a nation affected by subsection (a) has paid to the United States the full amount pledged, the Secretary of Defense shall release the amounts withheld from payment pursuant to subsection (a).

(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States.

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TITLE VIII—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991

SEC. 801. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR OPERATING EXPENSES

There is hereby authorized to be appropriated for fiscal year 1991 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) for weapons activities production and surveillance, $283,0900,000.

* * * * * * *

SEC. 803. APPLICABILITY OF RECURRING GENERAL PROVISIONS

The provisions contained in part B of title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1829) shall apply with respect to the authorizations provided in this title in the same manner as such provisions apply with respect to the authorizations provided in title XXXI of such Act.

* * * * * * *

(4) Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 [1]

Partial text of Public Law 102–20 [H.R. 1176], 105 Stat. 68, approved March 27, 1991

AN ACT To provide authorizations for supplemental appropriations for fiscal year 1991 for the Department of State and the Agency for International Development for certain emergency costs associated with the Persian Gulf conflict, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991".

* * * * * * *

SEC. 6. BURDENSHARING.

The Congress—

(1) takes note of the commendable efforts on the part of the President and the Secretary of State to encourage our allies to assist financially in the effort to liberate Kuwait; and

(2) calls on the President and the Secretary of State to take such actions as are necessary to ensure that the burdensharing promises made to the American people by our allies are fulfilled.

[1] See also *Legislation on Foreign Relations Through 1997*, vol. II, sec. D.

(5) Iraq Sanctions Act of 1990

Partial text of Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979 at 2047, approved November 5, 1990

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

IRAQ SANCTIONS ACT OF 1990

SEC. 586. SHORT TITLE.

Sections 586 through 586J of this Act may be cited as the "Iraq Sanctions Act of 1990".

SEC. 586A. DECLARATIONS REGARDING IRAQ'S INVASION OF KUWAIT.

The Congress—

(1) condemns Iraq's invasion of Kuwait on August 2, 1990;

(2) supports the actions that have been taken by the President in response to that invasion;

(3) calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait;

(4) supports the efforts of the United Nations Security Council to end this violation of international law and threat to international peace;

(5) supports the imposition and enforcement of multilateral sanctions against Iraq;

(6) calls on United States allies and other countries to support fully the efforts of the United Nations Security Council, and to take other appropriate actions, to bring about an end to Iraq's occupation of Kuwait; and

(7) condemns the brutal occupation of Kuwait by Iraq and its gross violations of internationally recognized human rights in Kuwait, including widespread arrests, torture, summary executions, and mass extrajudicial killings.

SEC. 586B. CONSULTATIONS WITH CONGRESS.

The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated

events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

SEC. 586C. TRADE EMBARGO AGAINST IRAQ.

(a) CONTINUATION OF EMBARGO.—Except as otherwise provided in this section, the President shall continue to impose the trade embargo and other economic sanctions with respect to Iraq and Kuwait that the United States is imposing, in response to Iraq's invasion of Kuwait, pursuant to Executive Orders Numbered 12724 and 12725 (August 9, 1990) and, to the extent they are still in effect, Executive Orders Numbered 12722 and 12723[1] (August 2, 1990). Notwithstanding any other provision of law, no funds, credits, guarantees, or insurance appropriated or otherwise made available by this or any other Act for fiscal year 1991 or any fiscal year thereafter shall be used to support or administer any financial or commercial operation of any United States Government department, agency, or other entity, or of any person subject to the jurisdiction of the United States, for the benefit of the Government of Iraq, its agencies or instrumentalities, or any person working on behalf of the Government of Iraq, contrary to the trade embargo and other economic sanctions imposed in accordance with this section.

(b) HUMANITARIAN ASSISTANCE.—To the extent that transactions involving foodstuffs or payments for foodstuffs are exempted "in humanitarian circumstances" from the prohibitions established by the United States pursuant to United Nations Security Council Resolution 661 (1990), those exemptions shall be limited to foodstuffs that are to be provided consistent with United Nations Security Council Resolution 666 (1990) and other relevant Security Council resolutions.[2]

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[1] Executive Orders 12723 and 12725, relating to Kuwait, were revoked by Executive Order 12771 of July 25, 1991 (56 F.R. 35993; July 29, 1991). The national emergency with respect to Iraq detailed in Executive Orders 12722 and 12724 was extended by unnumbered notice on July 26, 1991 (56 F.R. 35995; July 29, 1991).

[2] United Nations Security Council Resolution 678, adopted November 29, 1990, recalled and reaffirmed the intentions of earlier U.N. resolutions relating to Iraq's invasion of Kuwait on August 2, 1990. Earlier resolutions, in part: condemned the Iraqi invasion of Kuwait, demanded that Iraq withdraw immediately and unconditionally from Kuwait, called upon Iraq and Kuwait to begin negotiations for the resolution of their differences (Resolution 660 adopted August 2, 1990); prevented trade relations between Iraq and U.N. Member States, or the import of any Iraqi or Kuwaiti products, and established a Committee of the Security Council to examine progress of this trade embargo (Resolution 661 adopted August 6, 1990); determined that the annexation of Kuwait by Iraq had no legal validity (Resolution 662 of August 9, 1990); demanded that Iraq facilitate and permit the immediate departure from Kuwait and Iraq of third country citizens (Resolution 664 adopted August 18, 1990); called upon Member States to blockade maritime activity to the region (Resolution 665 adopted August 25, 1990); considered an exemption of the trade embargo for foodstuffs to Iraq and Kuwait (Resolution 666 adopted September 13, 1990); condemned Iraq's aggressions against international diplomatic premises and personnel in Kuwait (Resolution 667 adopted September 16, 1990); expanded responsibilities of the Committee established under Resolution 661 (Resolution 669 adopted September 14, 1990); further defined the trade embargo to include air traffic, and called upon Member States to detain Iraqi ships in port (Resolution 670 adopted September 25, 1990); condemned the taking of third nation nationals hostage, and condemned the destruction of Kuwaiti property by Iraq (Resolution 674 adopted October 29, 1990); and condemned Iraqi attempts to alter the demographic composition of the Kuwaiti population (Resolution 677 adopted November 28, 1990).

Resolution 678, adopted by the U.N. Security Council on November 29, 1990, in part:

"Demands that Iraq comply fully with resolutions 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

"Authorizes Member States cooperating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;".

(c) NOTICE TO CONGRESS OF EXCEPTIONS TO AND TERMINATION OF SANCTIONS.—

(1) NOTICE OF REGULATIONS.—Any regulations issued after the date of enactment of this Act with respect to the economic sanctions imposed with respect to Iraq and Kuwait by the United States under Executive Orders Numbered 12722 and 12723 (August 2, 1990) and Executive Orders Numbered 12724 and 12725 (August 9, 1990)[1] shall be submitted to the Congress before those regulations take effect.

(2) NOTICE OF TERMINATION OF SANCTIONS.—The President shall notify the Congress at least 15 days before the termination, in whole or in part, of any sanction imposed with respect to Iraq or Kuwait pursuant to those Executive orders.

(d) RELATION TO OTHER LAWS.—

(1) SANCTIONS LEGISLATION.—The sanctions that are described in subsection (a) are in addition to, and not in lieu of the sanctions provided for in section 586G of this Act or any other provision of law.

(2) NATIONAL EMERGENCIES AND UNITED NATIONS LEGISLATION.—Nothing in this section supersedes any provision of the National Emergencies Act or any authority of the President under the International Emergency Economic Powers Act or section 5(a) of the United Nations Participation Act of 1945.

SEC. 586D.[3] COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ.

(a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

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[3] In Presidential Determination No. 91–46 of July 13, 1991, the President invoked the authority of this section when he determined and certified "that assistance for Jordan under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and under section 23 of the Arms Export Control Act, is in the national interest of the United States.". He further determined, by virtue of authority given in sec. 502(c) of Public Law 102–27, that such assistance "would be beneficial to the peace process in the Middle East" (56 F.R. 33839; July 24, 1991).

In Presidential Determination No. 91–53 of September 16, 1991, the President made the same determinations regarding assistance for Jordan under chapter 5 of part II of the Foreign Assistance Act of 1961, as amended (56 F.R. 49837; October 2, 1991).

(1) the importation of products of Iraq into its customs territory, and

(2) the export of its products to Iraq.

SEC. 586E. PENALTIES FOR VIOLATIONS OF EMBARGO.

Notwithstanding section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) and section 5(b) of the United Nations Participation Act of 1945[4] (22 U.S.C. 287c(b))—

(1) a civil penalty of not to exceed $250,000 may be imposed on any person who, after the date of enactment of this Act, violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725[1] or any license, order, or regulation issued under any such Executive order; and

(2) whoever, after the date of enactment of this Act, willfully violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725[1] or any license, order, or regulation issued under any such Executive order—

(A) shall, upon conviction, be fined not more than $1,000,000, if a person other than a natural person; or

(B) if a natural person, shall, upon conviction, be fined not more than $1,000,000, be imprisoned for not more than 12 years, or both.

Any officer, director, or agent of any corporation who knowingly participates in a violation, evasion, or attempt described in paragraph (2) may be punished by imposition of the fine or imprisonment (or both) specified in subparagraph (B) of that paragraph.

SEC. 586F. DECLARATIONS REGARDING IRAQ'S LONG-STANDING VIOLATIONS OF INTERNATIONAL LAW.

(a) IRAQ'S VIOLATIONS OF INTERNATIONAL LAW.—The Congress determines that—

(1) the Government of Iraq has demonstrated repeated and blatant disregard for its obligations under international law by violating the Charter of the United Nations, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925), as well as other international treaties;

(2) the Government of Iraq is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights and is obligated under the Covenants, as well as the Universal Declaration of Human Rights, to respect internationally recognized human rights;

(3) the State Department's Country Reports on Human Rights Practices for 1989 again characterizes Iraq's human rights record as "abysmal";

(4) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass

[4] See *Legislation on Foreign Relations Through 1997*, vol. III; and *Legislation on Foreign Relations Through 1997*, vol. II, respectively.

political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents, forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech, and the press, and the imprisonment, torture, and execution of children;

(5) since 1987, the Government of Iraq has intensified its severe repression of the Kurdish minority of Iraq, deliberately destroyed more than 3,000 villages and towns in the Kurdish regions, and forcibly expelled more than 500,000 people, thus effectively depopulating the rural areas of Iraqi Kurdistan;

(6) Iraq has blatantly violated international law by initiating use of chemical weapons in the Iran-Iraq war;

(7) Iraq has also violated international law by using chemical weapons against its own Kurdish citizens, resulting in tens of thousands of deaths and more than 65,000 refugees;

(8) Iraq continues to expand its chemical weapons capability, and President Saddam Hussein has threatened to use chemical weapons against other nations;

(9) persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(10) there are strong indications that Iraq has taken steps to produce nuclear weapons and has attempted to smuggle from the United States, in violation of United States law, components for triggering devices used in nuclear warheads whose manufacture would contravene the Treaty on the Non-Proliferation of Nuclear Weapons, to which Iraq is a party; and

(11) Iraqi President Saddam Hussein has threatened to use terrorism against other nations in violation of international law and has increased Iraq's support for the Palestine Liberation Organization and other Palestinian groups that have conducted terrorist acts.

(b) HUMAN RIGHTS VIOLATIONS.—The Congress determines that the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights. All provisions of law that impose sanctions against a country whose government is engaged in a consistent pattern of gross violations of internationally recognized human rights shall be fully enforced against Iraq.

(c) SUPPORT FOR INTERNATIONAL TERRORISM.—(1) The Congress determines that Iraq is a country which has repeatedly provided support for acts of international terrorism, a country which grants sanctuary from prosecution to individuals or groups which have committed an act of international terrorism, and a country which otherwise supports international terrorism. The provisions of law specified in paragraph (2) and all other provisions of law that impose sanctions against a country which has repeatedly provided support for acts of international terrorism, which grants sanctuary from prosecution to an individual or group which has committed an act of international terrorism, or which otherwise supports international terrorism shall be fully enforced against Iraq.

(2) The provisions of law referred to in paragraph (1) are—

(A) section 40 of the Arms Export Control Act;

(B) section 620A of the Foreign Assistance Act of 1961;

(C) sections 555 and 556 of this Act (and the corresponding sections of predecessor foreign operations appropriations Acts); and

(D) section 555 of the International Security and Development Cooperation Act of 1985.

(d) MULTILATERAL COOPERATION.—The Congress calls on the President to seek multilateral cooperation—

(1) to deny dangerous technologies to Iraq;

(2) to induce Iraq to respect internationally recognized human rights; and

(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq and Kuwait, including the areas in northern Iraq traditionally inhabited by Kurds.

SEC. 586G. SANCTIONS AGAINST IRAQ.

(a)[5] IMPOSITION.—Except as provided in section 586H, the following sanctions shall apply with respect to Iraq:

(1) FMS SALES.—The United States Government shall not enter into any sale with Iraq under the Arms Export Control Act.

(2) COMMERCIAL ARMS SALES.—Licenses shall not be issued for the export to Iraq of any item on the United States Munitions List.

(3) EXPORTS OF CERTAIN GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) shall be used to prohibit the export to Iraq of any goods or technology listed pursuant to that section or section 5(c)(1) of that Act (50 U.S.C. App. 2404(c)(1)) on the control list provided for in section 4(b) of that Act (50 U.S.C. App. 2403(b)).

(4) NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY.—

(A) NRC LICENSES.—The Nuclear Regulatory Commission shall not issue any license or other authorization under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following) for the export to Iraq of any source or special nuclear material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)), or any other material or technology requiring such a license or authorization.

(B) DISTRIBUTION OF NUCLEAR MATERIALS.—The authority of the Atomic Energy Act of 1954 shall not be used to distribute any special nuclear material, source material, or byproduct material to Iraq.

(C) DOE AUTHORIZATIONS.—The Secretary of Energy shall not provide a specific authorization under section

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[5] Sec. 1603 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2752) provided the following:

"SEC. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

"The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.".

See title XVI of that Act—Iran-Iraq Arms Non-Proliferation Act of 1992.

57b. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)(2)) for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

(5) ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS.—The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(6) ASSISTANCE THROUGH THE EXPORT-IMPORT BANK.—Credits and credit guarantees through the Export-Import Bank of the United States shall be denied to Iraq.

(7) ASSISTANCE THROUGH THE COMMODITY CREDIT CORPORATION.—Credit, credit guarantees, and other assistance through the Commodity Credit Corporation shall be denied to Iraq.

(8) FOREIGN ASSISTANCE.—All forms of assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) other than emergency assistance for medical supplies and other forms of emergency humanitarian assistance, and under the Arms Export Control Act (22 U.S.C. 2751 and following) shall be denied to Iraq.

(b) CONTRACT SANCTITY.—For purposes of the export controls imposed pursuant to subsection (a)(3), the date described in subsection (m)(1) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) shall be deemed to be August 1, 1990.

SEC. 586H. WAIVER AUTHORITY.

(a) IN GENERAL.—The President may waive the requirements of any paragraph of section 586G(a) if the President makes a certification under subsection (b) or subsection (c).

(b) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI POLICIES AND ACTIONS.—The authority of subsection (a) may be exercised 60 days after the President certifies to the Congress that—

(1) the Government of Iraq—

(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights;

(B) is not acquiring, developing, or manufacturing (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses; and

(C) does not provide support for international terrorism;

(2) the Government of Iraq is in substantial compliance with its obligations under international law, including—

(A) the Charter of the United Nations;

(B) the International Covenant on Civil and Political Rights (done at New York, December 16, 1966) and the International Covenant on Economic, Social, and Cultural Rights (done at New York, December 16, 1966);

(C) the Convention on the Prevention and Punishment of the Crime of Genocide (done at Paris, December 9, 1948);

(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925);

(E) the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow, July 1, 1968); and

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow, April 10, 1972); and

(3) the President has determined that it is essential to the national interests of the United States to exercise the authority of subsection (a).

(c) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI LEADERSHIP AND POLICIES.—The authority of subsection (a) may be exercised 30 days after the President certifies to the Congress that—

(1) there has been a fundamental change in the leadership of the Government of Iraq; and

(2) the new Government of Iraq has provided reliable and credible assurance that—

(A) it respects internationally recognized human rights and it will demonstrate such respect through its conduct;

(B) it is not acquiring, developing, or manufacturing and it will not acquire, develop, or manufacture (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses;

(C) it is not and will not provide support for international terrorism; and

(D) it is and will continue to be in substantial compliance with its obligations under international law, including all the treaties specified in subparagraphs (A) through (F) of subsection (b)(2).

(d) INFORMATION TO BE INCLUDED IN CERTIFICATIONS.—Any certification under subsection (b) or (c) shall include the justification for each determination required by that subsection. The certification shall also specify which paragraphs of section 586G(a) the President will waive pursuant to that certification.

SEC. 586I. DENIAL OF LICENSES FOR CERTAIN EXPORTS TO COUNTRIES ASSISTING IRAQ'S ROCKET OR CHEMICAL, BIOLOGICAL, OR NUCLEAR WEAPONS CAPABILITY.

(a) RESTRICTION ON EXPORT LICENSES.—None of the funds appropriated by this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines is assisting, or whose government officials the President determines are assisting, Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability.

(b) NEGOTIATIONS.—The President is directed to begin immediate negotiations with those governments with which the United States

has bilateral supercomputer agreements, including the Government of the United Kingdom and the Government of Japan, on conditions restricting the transfer to Iraq of supercomputer or associated technology.

SEC. 586J. REPORTS TO CONGRESS.

(a) STUDY AND REPORT ON THE INTERNATIONAL EXPORT TO IRAQ OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND BALLISTIC MISSILE TECHNOLOGY.—(1) The President shall conduct a study on the sale, export, and third party transfer or development of nuclear, biological, chemical, and ballistic missile technology to or with Iraq including—

(A) an identification of specific countries, as well as companies and individuals, both foreign and domestic, engaged in such sale or export of, nuclear, biological, chemical, and ballistic missile technology;

(B) a detailed description and analysis of the international supply, information, support, and coproduction network, individual, corporate, and state, responsible for Iraq's current capability in the area of nuclear, biological, chemical, and ballistic missile technology; and

(C) a recommendation of standards and procedures against which to measure and verify a decision of the Government of Iraq to terminate the development, production, coproduction, and deployment of nuclear, biological, chemical, and offensive ballistic missile technology as well as the destruction of all existing facilities associated with such technologies.

(2) The President shall include in the study required by paragraph (1) specific recommendations on new mechanisms, to include, but not be limited to, legal, political, economic and regulatory, whereby the United States might contribute, in conjunction with its friends, allies, and the international community, to the management, control, or elimination of the threat of nuclear, biological, chemical, and ballistic missile proliferation.

(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[6] of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(b) STUDY AND REPORT ON IRAQ'S OFFENSIVE MILITARY CAPABILITY.—(1) The President shall conduct a study on Iraq's offensive military capability and its effect on the Middle East balance of power including an assessment of Iraq's power projection capability, the prospects for another sustained conflict with Iran, joint Iraqi-Jordanian military cooperation, the threat Iraq's arms transfer activities pose to United States allies in the Middle East, and the extension of Iraq's political-military influence into Africa and Latin America.

[6] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[6] of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1).

(c) REPORT ON SANCTIONS TAKEN BY OTHER NATIONS AGAINST IRAQ.—(1) The President shall prepare a report on the steps taken by other nations, both before and after the August 2, 1990, invasion of Kuwait, to curtail the export of goods, services, and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical, and ballistic missile capability.

(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions adopted by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.[2]

(3) The President shall make every effort to encourage other nations, in whatever forum or context, to adopt sanctions toward Iraq similar to those contained in this section.

(4) Not later than every 6 months after the date of enactment of this Act, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[6] of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

* * * * * * *

(6) Budget Enforcement Act of 1990—Emergency Appropriations Requirements

Partial text of Public Law 101–508 [Budget Enforcement Act of 1990, title XIII of the Omnibus Budget Reconciliation Act of 1990; H.R. 5835], 104 Stat. 1388, approved November 5, 1990; amended by Public Law 103–354 [Crop Insurance Reform and Department of Agriculture Reorganization Act; H.R. 4217], 108 Stat. 3178, approved October 13, 1994

AN ACT To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

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TITLE XIII—BUDGET ENFORCEMENT

SEC. 13001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Budget Enforcement Act of 1990".

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PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SEC. 13101. SEQUESTRATION.

(a) SECTIONS 250 THROUGH 254.—Sections 251 (except for subsection (a)(6)(I)) through 254 of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 *et seq.*) are amended to read as follows:

* * * * * * *

"SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

"(a) * * *

"(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—(1) * * *

"(2) When OMB submits a sequestration report under section 254(g) or (h) for fiscal year 1991, 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the sequestration report, and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include, adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 1995, as follows:

* * * * * * *

"(D) EMERGENCY APPROPRIATIONS.—(i) If, for fiscal years 1991, 1992, 1993, 1994, or 1995, appropriations for discretionary accounts

are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations. This subparagraph shall not apply to appropriations to cover agricultural crop disaster assistance.[1]

"(ii) The costs for Operation Desert Shield are to be treated as emergency funding requirements not subject to the defense spending limits. Funding for Desert Shield will be provided through the normal legislative process. Desert Shield costs should be accommodated through Allied burden-sharing, subsequent appropriation Acts, and if the President so chooses, through offsets within other defense accounts. Emergency Desert Shield costs mean those incremental costs associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield."

* * * * * * *

[1] Sec. 119(d)(1) of Public Law 103–354 (108 Stat. 3208) added the last sentence in subpar. (i).

b. Assistance to Eastern Europe and the Former Soviet Union

(1) Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States

FRIENDSHIP Act

Partial text of Public Law 103–199 [H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—The FRIENDSHIP Act amends several Public Laws presented in *Legislation on Foreign Relations Through 1997*.

In volume I–A, see: Foreign Assistance Act of 1961; Arms Export Control Act; International Security Assistance and Arms Export Control Act of 1976; International Security Assistance Act of 1978; and International Security and Development Cooperation Act of 1981.

In volume I–B, see: Department of Defense Appropriations Authorization Act, 1975; Department of Defense Authorization Act, 1986; National Defense Authorization Act, Fiscal Year 1987; National Defense Authorization Act for Fiscal Years 1988 and 1989; National Defense Authorization Act, Fiscal Year 1989; and Joint Resolution of August 8, 1985 relating to U.S./Soviet communications.

In volume II, see: Department of State Authorization Act, Fiscal Years 1982 and 1983; Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; Mutual Educational and Cultural Exchange Act of 1961; Soviet-Eastern European Research and Training Act of 1983; Fascell Fellowship Act; Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985; Arms Control and Disarmament Act; and Foreign Service Buildings Act, 1926.

In volume III, see: Export Administration Act of 1979 and Omnibus Trade and Competitiveness Act of 1988.

In volume IV, see: Title 18 U.S.C.; Global Climate Protection Act of 1987; and Arctic Research and Policy Act of 1984.

The FRIENDSHIP Act also amended: Intelligence Authorization Act, Fiscal Year 1987; Intelligence Authorization Act, Fiscal Year 1988; Intelligence Authorization Act, Fiscal Year 1990; Act of November 2, 1966 (Fur Seal Act); Federal Civil Defense Act of 1950; and Subversive Activities Control Act of 1950.

AN ACT For reform in emerging new democracies and support and help for improved partnership with Russia, Ukraine, and other new independent states of the former Soviet Union.

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

SECTION 1. SHORT TITLES.

This Act may be cited as the "Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States" or as the "FRIENDSHIP Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short titles.
Sec. 2. Table of contents.
Sec. 3. Definition.

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

Sec. 101. Statement of purpose.
Sec. 102. Findings.
Sec. 103. Statutory provisions that have been applicable to the Soviet Union.

TITLE II—TRADE AND BUSINESS RELATIONS

Sec. 201. Policy under Export Administration Act.
Sec. 202. Representation of countries of Eastern Europe and the Independent States of the former Soviet Union in legal commercial transactions.
Sec. 203. Procedures regarding transfers of certain Department of Defense-funded items.
Sec. 204. Soviet slave labor.

TITLE III—CULTURAL, EDUCATIONAL, AND OTHER EXCHANGE PROGRAMS

Sec. 301. Mutual Educational and Cultural Exchange Act of 1961.
Sec. 302. Soviet-Eastern European research and training.
Sec. 303. Fascell Fellowship Act.
Sec. 304. Board for International Broadcasting Act.
Sec. 305. Scholarship programs for developing countries.
Sec. 306. Report on Soviet participants in certain exchange programs.

TITLE IV—ARMS CONTROL

Sec. 401. Arms Control and Disarmament Act.
Sec. 402. Arms Export Control Act.
Sec. 403. Annual reports on arms control matters.
Sec. 404. United States/Soviet direct communication link.

TITLE V—DIPLOMATIC RELATIONS

Sec. 501. Personnel levels and limitations.
Sec. 502. Other provisions related to operation of embassies and consulates.
Sec. 503. Foreign Service Buildings Act.

TITLE VI—OCEANS AND THE ENVIRONMENT

Sec. 601. Arctic Research and Policy Act.
Sec. 602. Fur seal management.
Sec. 603. Global climate protection.

TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES

Sec. 701. United Nations assessments.
Sec. 702. Soviet occupation of Afghanistan.
Sec. 703. Angola.
Sec. 704. Self determination of the people from the Baltic States.
Sec. 705. Obsolete references in Foreign Assistance Act.
Sec. 706. Review of United States policy toward the Soviet Union.

TITLE VIII—INTERNAL SECURITY; WORLDWIDE COMMUNIST CONSPIRACY

Sec. 801. Civil defense.
Sec. 802. Report on Soviet press manipulation in the United States.
Sec. 803. Subversive Activities Control Act.
Sec. 804. Report on Soviet and international communist behavior.

TITLE IX—MISCELLANEOUS

Sec. 901. Ballistic missile tests near Hawaii.
Sec. 902. Nondelivery of international mail.
Sec. 903. State-sponsored harassment of religious groups.
Sec. 904. Murder of Major Arthur Nicholson.
Sec. 905. Monument to honor victims of communism.

SEC. 3. DEFINITION.

As used in this Act (including the amendments made by this Act), the terms "independent states of the former Soviet Union" and "independent states" have the meaning given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5801).

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

SEC. 101. STATEMENT OF PURPOSE.

The purpose of this Act is to amend or repeal numerous statutory provisions that restrict or otherwise impede normal relations between the United States and the Russian Federation, Ukraine, and the other independent states of the former Soviet Union. All of the statutory provisions amended or repealed by this Act were relevant and appropriate at the time of enactment, but with the end of the Cold War, they have become obsolete. It is not the purpose of this Act to rewrite or erase history, or to forget those who suffered in the past from the injustices or repression of communist regimes in the Soviet Union, but rather to update United States law to reflect changed international circumstances and to demonstrate for reformers and democrats in the independent states of the former Soviet Union the resolve of the people of the United States to support the process of democratic and economic reform and to conduct business with those states in a new spirit of friendship and cooperation.

SEC. 102. FINDINGS.

The Congress finds and declares as follows:

(1) The Vancouver Declaration issued by President Clinton and President Yeltsin in April 1993 marked a new milestone in the development of the spirit of cooperation and partnership between the United States and Russia. The Congress affirms its support for the principles contained in the Vancouver Declaration.

(2) The Vancouver Declaration underscored that—

(A) a dynamic and effective partnership between the United States and Russia is vital to the success of Russia's historic transformation;

(B) the rapid integration of Russia into the community of democratic nations and the world economy is important to the national interest of the United States; and

(C) cooperation between the United States and Russia is essential to the peaceful resolution of international conflicts and the promotion of democratic values, the protec-

tion of human rights, and the solution of global problems such as environmental pollution, terrorism, and narcotics trafficking.

(3) The Congress enacted the FREEDOM Support Act (Public Law 102–511), as well as other legislation such as the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228) and the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484), to help meet the historic opportunities and challenges presented by the transformation that has taken place, and is continuing to take place, in what once was the Soviet Union.

(4) The process of reform in Russia, Ukraine, and the other independent states of the former Soviet Union is ongoing. The holding of a referendum in Russia on April 25, 1993, that was free and fair, and that reflected the support of the Russian people for the process of continued and strengthened democratic and economic reform, represents an important and encouraging hallmark in this ongoing process.

(5) There remain in force many United States laws that are relics of the Cold War, and repeals or revisions of these provisions can play an important role in efforts to foster and strengthen the bonds of trust and friendship, as well as mutually beneficial trade and economic relations, between the United States and Russia, the United States and Ukraine, and the United States and the other independent states of the former Soviet Union.

SEC. 103. STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION.

(a) IN GENERAL.—There are numerous statutory provisions that were enacted in the context of United States relations with a country, the Soviet Union, that are fundamentally different from the relations that now exist between the United States and Russia, between the United States and Ukraine, and between the United States and the other independent states of the former Soviet Union.

(b) EXTENT OF SUCH PROVISIONS.—Many of the provisions referred to in subsection (a) imposed limitations specifically with respect to the Soviet Union, and its constituent republics, or utilized language that reflected the tension that existed between the United States and the Soviet Union at the time of their enactment. Other such provisions did not refer specifically to the Soviet Union, but nonetheless were directed (or may be construed as having been directed) against the Soviet Union on the basis of the relations that formerly existed between the United States and the Soviet Union, particularly in its role as the leading communist country.

(c) FINDINGS AND AFFIRMATION.—The Congress finds and affirms that provisions such as those described in this section, including—

(1) section 216 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316),

(2) sections 136 and 804 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93),

(3) section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411),

(4) the Multilateral Export Control Enhancement Amendments Act (50 U.S.C. 2410 note, et seq.),

(5) the joint resolution providing for the designation of "Captive Nations Week" (Public Law 86–90),

(6) the Communist Control Act of 1954 (Public Law 83–637),

(7) provisions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including sections 101(a)(40), 101(e)(3), and 313(a)(3),

(8) section 2 of the joint resolution entitled "A joint resolution to promote peace and stability in the Middle East", approved March 9, 1957 (Public Law 85–7), and

(9) section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa),

should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.

TITLE II—TRADE AND BUSINESS RELATIONS

SEC. 201. POLICY UNDER EXPORT ADMINISTRATION ACT.

(a) CONFORMING AMENDMENTS.— * * *

(b) POLICY REGARDING KAL.—

(1) The Congress finds that—

(A) President Yeltsin should be commended for meeting personally with representatives of the families of the victims of the shootdown of Korean Airlines (KAL) Flight 7;

(B) President Yeltsin's Government has met on two separate occasions with United States Government and family members to answer questions associated with the shootdown and has arranged for the families to interview Russians involved in the incident or the search and rescue operations that followed;

(C) President Yeltsin's Government has also cooperated fully with the International Civil Aviation Organization (ICAO) to allow it to complete its investigation of the incident and has provided numerous materials requested by the ICAO, including radar data and so-called "black boxes", the digital flight data and cockpit voice recorders from the flight;

(D) the Export Administration Act of 1979 continues to state that the United States should continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics in light of the KAL tragedy, even though the "no exceptions" policy was rescinded by President Bush in 1990;

(E) the Government of the United States is seeking compensation from the Russian Government on behalf of the families of the KAL victims, and the Congress expects the Administration to continue to pursue issues related to the shootdown, including that of compensation, with officials at the highest level of the Russian Government; and

(F) in view of the cooperation provided by President Yeltsin and his government regarding the KAL incident and these other developments, it is appropriate to remove such language from the Export Administration Act of 1979.

(2) * * *

* * * * * * *

TITLE IX—MISCELLANEOUS

* * * * * * *

SEC. 905. MONUMENT TO HONOR VICTIMS OF COMMUNISM.

(a) FINDINGS.—Congress finds that—

(1) since 1917, the rulers of empires and international communism led by Vladimir I. Lenin and Mao Tse-tung have been responsible for the deaths of over 100,000,000 victims in an unprecedented imperial communist holocaust through conquests, revolutions, civil wars, purges, wars by proxy, and other violent means;

(2) the imperialist regimes of international communism have brutally suppressed the human rights, national independence, religious liberty, intellectual freedom, and cultural life of the peoples of over 40 captive nations;

(3) there is a danger that the heroic sacrifices of the victims of communism may be forgotten as international communism and its imperial bases continue to collapse and crumble; and

(4) the sacrifices of these victims should be permanently memorialized so that never again will nations and peoples allow so evil a tyranny to terrorize the world.

(b) AUTHORIZATION OF MEMORIAL.—

(1) AUTHORIZATION.—

(A) The National Captive Nations Committee, Inc., is authorized to construct, maintain, and operate in the District of Columbia an appropriate international memorial to honor victims of communism.

(B) The National Captive Nations Committee, Inc., is encouraged to create an independent entity for the purposes of constructing, maintaining, and operating the memorial.

(C) Once created, this entity is encouraged and authorized, to the maximum extent practicable, to include as active participants organizations representing all groups that have suffered under communism.

(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The design, location, inscription, and construction of the memorial authorized by paragraph (1) shall be subject to the requirements of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The entity referred to in subsection (b)(1) shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial.

No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial, including the maintenance and preservation amount provided for in section 8(b) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1008(b)), or upon expiration of the authority for the memorial under section 10(b) of such Act (40 U.S.C. 4010(b)), there remains a balance of funds received for the establishment of the memorial, the entity referred to in subsection (b)(1) shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act (40 U.S.C. 1008(b)(1)).

(2) Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992

FREEDOM Support Act

Partial text of Public Law 102–511 [S. 2532], 106 Stat. 3320, approved October 24, 1992; amended by Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995

AN ACT To support freedom and open markets in the independent states of the former Soviet Union, and for other purposes.

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

SECTION 1.[1] SHORT TITLES.

This Act may be cited as the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992" or the "FREEDOM Support Act".

SEC. 2. TABLE OF CONTENTS.

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[1] 22 U.S.C. 5801 note.

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SEC. 3.[2] DEFINITION OF INDEPENDENT STATES.

For purposes of this Act, the terms "independent states of the former Soviet Union" and "independent states" mean the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

[2] 22 U.S.C. 5801.

TITLE I—GENERAL PROVISIONS

SEC. 101.[3] FINDINGS.

The Congress finds that—

(1) recent developments in Russia and the other independent states of the former Soviet Union present an historic opportunity for a transition to a peaceful and stable international order and the integration of the independent states of the former Soviet Union into the community of democratic nations;

(2) the entire international community has a vital interest in the success of this transition, and the dimension of the problems now faced in the independent states of the former Soviet Union makes it imperative for donor countries and institutions to provide the expertise and support necessary to ensure continued progress on economic and political reforms;

(3) the United States is especially well-positioned because of its heritage and traditions to make a substantial contribution to this transition by building on current technical cooperation, medical, and food assistance programs, by assisting in the development of democratic institutions, and by fostering conditions that will encourage the United States business community to engage in trade and investment;

(4) failure to meet the opportunities presented by these developments could threaten United States national security interests and jeopardize substantial savings in United States defense that these developments have made possible;

(5) the independent states of the former Soviet Union face unprecedented environmental problems that jeopardize the quality of life and the very existence of not only their own peoples but also the peoples of other countries, and it is incumbent on the international community to assist the independent states in addressing these problems and in promoting sustainable use of resources and development;

(6) the success of United States assistance for the independent states of the former Soviet Union depends on—

(A) effective coordination of United States efforts with similar activities of friendly and allied donor countries and of international financial institutions, and

(B) reciprocal commitments by the governments of the independent states to work toward the creation of democratic institutions and an environment hospitable to foreign investment based upon the rule of law, including negotiation of bilateral and multilateral agreements on open trade and investment, adoption of commercial codes, establishment of transparency in regulatory and other governmental decision making, and timely payment of obligations carried over from previous governmental entities; and

(7) trade and investment opportunities in the independent states of the former Soviet Union will generate employment and other economic benefits for the United States as the economies of the independent states of the former Soviet Union

[3] 22 U.S.C. 5811.

begin to realize their enormous potential as both customers and suppliers.

SEC. 102.[4] PROGRAM COORDINATION, IMPLEMENTATION, AND OVERSIGHT.

(a) COORDINATION.—The President shall designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall assistance and economic cooperation strategy for the independent states of the former Soviet Union;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this Act (including the amendments made by this Act);

(3) pursuing coordination with other countries and international organizations with respect to assistance to independent states;

(4) ensuring that United States assistance programs for the independent states are consistent with this Act (including the amendments made by this Act);

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for the independent states; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for the independent states.

(b) EXPORT PROMOTION ACTIVITIES.—Consistent with subsection (a), coordination of activities related to the promotion of exports of United States goods and services to the independent states of the former Soviet Union shall continue to be primarily the responsibility of the Secretary of Commerce, in the Secretary's role as Chair of the Trade Promotion Coordination Committee.

(c) INTERNATIONAL ECONOMIC ACTIVITIES.—Consistent with subsection (a), coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury, in the Secretary's role as Chair of the National Advisory Council on International Monetary and Financial Policies and as the United States Governor of the international financial institutions.

(d) ACCOUNTABILITY FOR FUNDS.—Any agency managing and implementing an assistance program for the independent states of the former Soviet Union shall be accountable for any funds made available to it for such program.

SEC. 103.[5] REPORT ON OVERALL ASSISTANCE AND ECONOMIC COOPERATION STRATEGY.

(a) REQUIREMENT FOR SUBMISSION.—As soon as practicable after the date of enactment of this Act, the coordinator designated pursuant to section 102(a) shall submit to the Congress a report on the

[4] 22 U.S.C. 5812. See Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), providing for the delegation of functions under the Freedom Support Act and related provisions in the Foreign Operations, Export Financing, and Related Programs Appropriations Act.

[5] 22 U.S.C. 5813.

overall assistance and economic cooperation strategy for the independent states of the former Soviet Union that is required to be developed pursuant to paragraph (1) of that section.

(b) ASSISTANCE PLAN.—The report submitted pursuant to subsection (a) shall include a plan specifying—

(1) the amount of the funds authorized to be appropriated for fiscal year 1993 by chapter 11 of part I of the Foreign Assistance Act of 1961 proposed to be allocated for each of the categories of activities authorized by section 498 of that Act and to carry out section 301 of this Act (relating to American Business Centers), section 303 of this Act (relating to export promotion activities and capital projects), and title IV of this Act (relating to the Democracy Corps);

(2) the amount of other funds made available for fiscal year 1993 to carry out the Foreign Assistance Act of 1961 proposed to be allocated for assistance under that Act for the independent states of the former Soviet Union; and

(3) the amount of funds available for fiscal year 1993 under the Foreign Assistance Act of 1961 that are proposed to be made to each agency to carry out activities for the independent states under that Act or this Act.

SEC. 104.[6] ANNUAL REPORT.

Not later than January 31 of each year, the President shall submit to the Congress a report on United States assistance for the independent states of the former Soviet Union under this Act or other provisions of law. Each such report shall include—

(1) an assessment of the progress each independent state has made in meeting the standards set forth in section 498A of the Foreign Assistance Act of 1961, including a description of the steps each independent state has taken or is taking toward

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[6] 22 U.S.C. 5814.

In a January 29, 1993, memorandum for the Secretary of State, the President delegated the functions and authorities relating to the report required in this section to the Secretary of State, and further authorized their redelegation by the Secretary (Memorandum of January 29, 1993; 58 F.R. 8201; February 12, 1993).

Subsequently, in sec. 2(a) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), the President delegated to the Coordinator (as established in sec. 102 of this Act) those functions conferred upon the President in sec. 104, further providing that "the Coordinator is authorized to assign responsibility for particular aspects of the reports described in that section to the heads of appropriate agencies".

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1998 (Public Law 105–118; 111 Stat. 2395; 22 U.S.C. 5814 note), provided the following:

"ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

"(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, $770,000,000, to remain available until September 30, 1999: *Provided*, That the provisions of such chapter shall apply to funds appropriated by this paragraph.

* * * * * * *

"(c) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States: *Provided further*, That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian and refugee relief.".

On January 26, 1998, the President issued such a determination as required by subsec. (c) (Presidential Determination No. 98–11; as yet unpublished).

meeting those standards and a discussion of additional steps that each independent state could take to meet those standards;

(2) a description of the United States assistance for each independent state that was provided during the preceding fiscal year, is planned for the current fiscal year, and is proposed for the coming fiscal year, specifying the extent to which such assistance for the preceding fiscal year and for current fiscal year has actually been delivered;

(3) an assessment of the effectiveness of United States assistance in achieving its purposes; and

(4) an evaluation of the manner in which the "notwithstanding" authority provided in section 498B(j)(1) of the Foreign Assistance Act of 1961, and the "notwithstanding" authority provided in any other provision of law with respect to assistance for the independent states, has been used and why the use of that authority was necessary.

TITLE II—BILATERAL ECONOMIC ASSISTANCE ACTIVITIES

SEC. 201. SUPPORT FOR ECONOMIC AND DEMOCRATIC DEVELOPMENT IN THE INDEPENDENT STATES.

Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 10 the following:

"CHAPTER 11—SUPPORT FOR THE ECONOMIC AND DEMOCRATIC DEVELOPMENT OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION * * *"[7]

SEC. 202.[8] INELIGIBILITY FOR ASSISTANCE OF INSTITUTIONS WITHHOLDING CERTAIN DOCUMENTS OF UNITED STATES NATIONALS.

(a) PROHIBITION.—Except as provided in subsections (b) and (c), an agency, instrumentality, or other governmental entity of an independent state of the former Soviet Union shall not be eligible to receive assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 if—

(1) on the date of enactment of this Act, there is outstanding a final judgment by a court of competent jurisdiction in that independent state that that governmental entity is withholding unlawfully books or other documents of religious or historical significance that are the property of United States persons; and

(2) within 90 days of a request by such United States persons, the Secretary of State determines that execution of the court's judgment is blocked as the result of extrajudicial causes such as any of the following:

(A) A declared refusal of the defendant to comply.

(B) The unwillingness or failure of local authorities to enforce compliance.

[7] Codified at 22 U.S.C. 2295–2295C. Incorporated into the Foreign Assistance Act of 1961 (Public Law 87–195) as secs. 498–498C. For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[8] 22 U.S.C. 2295a note.

(C) The issuance of an administrative decree nullifying a court's judgment or forbidding compliance.

(D) The passage of legislation, after a court's judgment, nullifying that judgment or forbidding compliance with that judgment.

(b) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—The prohibition contained in subsection (a) shall not apply to the provision of assistance to alleviate suffering resulting from a natural or man-made disaster.

(c) WAIVER AUTHORITY.—The Secretary of State may waive the application of subsection (a) whenever the Secretary finds that—

(1) the court's judgment has been executed; or

(2) it is important to the national interest of the United States to do so.

(d) REPORT.—Nine months after the date of enactment of this Act, the Secretary of State shall report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the status of final judgments described in subsection (a)(1).

(e) UNITED STATES PERSON.—For purposes of this section, the term "United States person" means—

(1) any citizen, national, or permanent resident alien of the United States; and

(2) any corporation, partnership, or other juridical entity which is 50 percent or more beneficially owned by individuals described in paragraph (1).

TITLE III—BUSINESS AND COMMERCIAL DEVELOPMENT

SEC. 301.[9] AMERICAN BUSINESS CENTERS.

(a) ESTABLISHMENT.—The President is authorized and encouraged to establish American Business Centers in the independent states of the former Soviet Union receiving assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 where the President determines that such centers can be cost-effective in promoting the objectives described in section 498 of that Act and United States economic interests and in establishing commercial partnerships between the people of the United States and the peoples of the independent states.

(b) ENVIRONMENTAL BUSINESS CENTERS AND AGRIBUSINESS CENTERS.—For purposes of this section, the term "American Business Centers" includes the following:

(1) Environmental business centers in those independent states that offer promising market possibilities for the export of United States environmental goods and services. To the

[9] 22 U.S.C. 5821. Section 2(b) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Coordinator (as established in section 102 of this Act) those functions conferred upon the President in sec. 301, "insofar as it related to determinations and directives".

Sec. 3 of Executive Order 12884, however, "delegated to the United States International Development Cooperation Agency the functions conferred upon the President by:

"(a) sections 301(a) and 307 of the Act, except insofar as provided otherwise in section 2(b) of this order;".

This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102).

maximum extent practicable, these environmental business centers should be established as a component of other centers.

(2) Agribusiness centers that include the participation of private United States agribusinesses or agricultural cooperatives, private nonprofit organizations, State universities and land grant colleges, and financial institutions, that make appropriate contributions of equipment, materials, and personnel for the operation of such centers. The purposes of these agribusiness centers shall be—

(A) to enhance the ability of farmers and other agribusiness practitioners in the independent states to better meet the needs of the people of the independent states;

(B) to assist the transition from a command and control system in agriculture to a free market system; and

(C) to facilitate the demonstration and use of United States agricultural equipment and technology.

(c) ADDITIONAL POLICY GUIDANCE.—To the maximum extent possible, and consistent with the particular purposes of the specific types of centers, the President should direct that—

(1) the American Business Centers established pursuant to this section place special emphasis on assistance to United States small- and medium-sized businesses to facilitate their entry into the commercial markets of the independent states;

(2) such centers offer office space, business facilities, and market analysis services to United States firms, trade associations, and State economic development offices on a user-fee basis that minimizes the cost of operating such centers;

(3) such centers serve as a repository for commercial, legal, and technical information, including environmental and export control information;

(4) such centers identify existing or potential counterpart businesses or organizations that may require specific technical coordination or assistance;

(5) such centers be established in several sites in the independent states; and

(6) host countries be asked to make appropriate contributions of real estate and personnel for the establishment and operation of such centers.

(d) FUNDING.—

(1) REIMBURSEMENT AGREEMENT.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Agency for International Development shall conclude a reimbursement agreement with the Secretary of Commerce for the Department of Commerce's services in establishing and operating American Business Centers pursuant to this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961, up to $12,000,000 for fiscal year 1993 are authorized to be appropriated to carry out this section, in addition to amounts otherwise available for such purpose.

SEC. 302.[10] BUSINESS AND AGRICULTURE ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The President is authorized to establish an advisory council to be known as the Independent States Business and Agriculture Advisory Council (hereinafter in this section referred to as the "Council")—

(1) to consult with and advise the President periodically regarding programs of assistance for the independent states of the former Soviet Union; and

(2) to evaluate, and consult periodically with the President regarding, the adequacy of bilateral and multilateral assistance programs that would facilitate exports by United States companies to, and investments by United States companies in, the independent states.

(b) MEMBERSHIP.—The Council should consist of 15 members, appointed by the President, who are drawn from United States companies reflecting diverse businesses and perspectives that have experience and expertise in dealing with the independent states of the former Soviet Union. The President should designate one such member to serve as Chair of the Council. Five such members should be appointed upon the recommendation of the Speaker and the Minority Leader of the House of Representatives and 5 should be appointed upon the recommendation of the Majority Leader and Minority Leader of the Senate. Members of the Council shall receive no compensation from the United States Government by reason of their service on the Council.

(c) STAFF.—Upon request of the Chair of the Council, the head of any United States Government agency may detail, on a nonreimbursable basis, any of the personnel of such agency to the Council to assist the Council.

SEC. 303.[11] FUNDING FOR EXPORT PROMOTION ACTIVITIES AND CAPITAL PROJECTS.

(a) ALLOCATION OF A.I.D. FUNDS.—The President is encouraged to use a portion of the funds made available for the independent states of the former Soviet Union under chapter 11 of part I of the Foreign Assistance Act of 1961—

(1) to fund the export promotion, finance, and related activities carried out pursuant to subsection (b)(1), including activities relating to the export of intermediary goods; and

(2) to fund capital projects, including projects for telecommunications, environmental cleanup, power production, and energy related projects.

(b) EXPORT PROMOTION, FINANCE, AND RELATED ACTIVITIES.—The Secretary of Commerce, as Chair of the Trade Promotion Coordination Committee, should, in conjunction with other members of that committee, design and implement programs to provide adequate commercial and technical assistance to United States businesses seeking markets in the independent states of the former Soviet Union, including the following:

(1) Increasing the United States and Foreign Commercial Service presence in the independent states, in particular in the Russian Far Eastern cities of Vladivostok and Khabarovsk.

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[10] 22 U.S.C. 5822.
[11] 22 U.S.C. 5823.

(2) Preparing profiles of export opportunities for United States businesses in the independent states and providing other technical assistance.

(3) Utilizing the Market Development Cooperator Program under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723).

(4) Developing programs specifically for the purpose of assisting small- and medium-sized businesses in entering commercial markets of the independent states. In carrying out this paragraph, the Secretary of Commerce, to the extent possible, should work directly with private sector organizations with proven experience in trade and economic relations with the independent states.

(5) Supporting projects undertaken by the United States business community on the basis of partnership, joint venture, contractual, or other cooperative agreements with appropriate entities in the independent states.

(6) Supporting export finance programs, feasibility studies, political risk insurance, and other related programs through increased funding and flexibility in the implementation of such programs.

(7) Supporting the Business Information Service (BISNIS) and its related programs.

SEC. 304.[12] INTERAGENCY WORKING GROUP ON ENERGY OF THE TRADE PROMOTION COORDINATING COMMITTEE.

The Trade Promotion Coordinating Committee should utilize its interagency working group on energy to assist United States energy sector companies to develop a long-term strategy for penetrating the energy market in the independent states of the former Soviet Union. The working group should—

(1) work with officials from the independent states in creating an environment conducive to United States energy investment;

(2) help to coordinate assistance to United States companies involved with projects to clean up former Soviet nuclear weapons sites and commercial nuclear waste; and

(3) work with representatives from United States business and industry involved with the energy sector to help facilitate the identification of business opportunities, including the promotion of oil, gas, and clean coal technology and products, energy efficiency, and the formation of joint ventures between United States companies and companies of the independent nations.

SEC. 305.[13] * * * [Repealed—1995]

SEC. 306.[14] POLICY ON COMBATTING TIED AID PRACTICES.

Should the Secretary of the Treasury determine that foreign countries are engaged in tied aid practices with respect to any of the independent states of the former Soviet Union that violate the

[12] 22 U.S.C. 5824.

[13] Formerly at 22 U.S.C. 5825; repealed by sec. 1021(e) of Public Law 104–66 (109 Stat. 713). Sec. 305 required the Secretary of Commerce to report annually to Congress on implementation of this Act, on the programs of other industrialized nations establishing business in former Soviet Union, and on related trade and pricing practices of other OECD nations.

[14] 22 U.S.C. 5826.

1991 Helsinki agreement of the Organization for Economic Cooperation and Development, the President should give priority attention to combatting such practices.

SEC. 307.[15] TECHNICAL ASSISTANCE FOR THE RUSSIAN FAR EAST.

(a) AUTHORIZATION.—The President is authorized to provide technical assistance, through an American university in a region which received nonstop air service to and from the Russian Far East as of July 1, 1992, to facilitate the development of United States business opportunities, free markets, and democratic institutions in the Russian Far East.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out subsection (a).

SEC. 308.[16] FUNDING FOR OPIC PROGRAMS.

(a) AUTHORITY TO MAKE ADDITIONAL FUNDS AVAILABLE.—Funds authorized to be appropriated for fiscal year 1993 to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 may be made available to cover costs incurred by the Overseas Private Investment Corporation in carrying out programs with respect to the independent states of the former Soviet Union under title IV of chapter 2 of part I of that Act (22 U.S.C. 2191 and following), in addition to amounts otherwise available for that purpose.

(b) ENACTMENT OF OPIC AUTHORIZATION ACT.—The authority of subsection (a) shall cease to be effective upon the enactment of the Overseas Private Investment Corporation Act Amendments Act of 1992.[17]

TITLE IV—THE DEMOCRACY CORPS

SEC. 401.[18] AUTHORIZATION FOR ESTABLISHMENT OF THE DEMOCRACY CORPS.

(a) ESTABLISHMENT; PURPOSE.—The President is authorized to provide for the establishment of the Democracy Corps as a private nonprofit organization, incorporated in the District of Columbia, whose purpose shall be to maintain a presence in the independent states of the former Soviet Union as described in subsection (c).

(b) BOARD OF DIRECTORS.—The Board of Directors of the Democracy Corps shall have not more than 10 members, appointed by the President. Individuals appointed to the Board—

(1) shall, individually or through the organizations they represent, have experience and expertise appropriate to carrying out the purpose of the Democracy Corps, including involvement either with activities of the type described in subsection (d) or in the independent states;

(2) shall be United States citizens; and

(3) may not be officers or employees of the United States Government or Members of Congress.

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[15] 22 U.S.C. 5827. Sec. 3(a) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), delegated to the United States International Development Cooperation Agency the functions conferred upon the President by sec. 307. This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102).

[16] 22 U.S.C. 5828.

[17] The Overseas Private Investment Corporation Act Amendments Act of 1992 was incorporated into the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651), and reauthorized OPIC in the Foreign Assistance Act of 1961.

[18] 22 U.S.C. 5841.

(c) GRANTS TO THE DEMOCRACY CORPS; PURPOSE.—The Administrator is authorized to make an annual grant to the Democracy Corps with the funds made available pursuant to this section. The purpose of such grants shall be to enable the Democracy Corps to maintain a presence in independent states of the former Soviet Union that will assist at the local level in the development of—

(1) institutions of democratic governance (including judicial, electoral, legislative, and administrative processes), and

(2) the nongovernmental organizations of a civil society (including charitable, educational, trade union, business, professional, voluntary, community, and other civic organizations),

by mobilizing the expertise of the American people to provide practical assistance through "on the ground" person-to-person advice, technical assistance, and small grants to indigenous individuals and indigenous entities, in accordance with subsection (d).

(d) ACTIVITIES.—The Democracy Corps shall be required to carry out its purpose through the placement within the independent states of teams of United States citizens with appropriate expertise and knowledge. Under guidelines developed by the Board, these teams shall assist indigenous individuals and entities in the independent states that are involved in the development of the institutions and organizations referred to in paragraphs (1) and (2) of subsection (c) by—

(1) providing advice and technical assistance;

(2) making small grants (which in most cases should not exceed $5,000) to such individuals and entities to assist the development of those institutions and organizations;

(3) identifying other sources of assistance; and

(4) operating local centers to serve as information, logistical, and educational centers and otherwise encourage cooperation and effectiveness by those involved in the development of democratic institutions, a market-oriented economy, and a civil society in the independent states.

These local centers may be designated as "Democracy Houses" or given another appropriate appellation.

(e) GRANT AGREEMENT.—Grants under this section shall be made pursuant to a grant agreement requiring the Democracy Corps to comply with the requirements specified in this section and with such other terms and conditions as the Administrator may require, which shall include requirements regarding consultation with the coordinator designated pursuant to section 102(a), conflicts of interest, and accountability for funds, including a requirement for annual independent audits.

(f) COORDINATION.—The Democracy Corps shall be required to—

(1) coordinate its activities pursuant to this section with the programs and activities of other entities operating in or providing assistance to the independent states of the former Soviet Union in support of the development of democratic institutions, a market-oriented economy, and a civil society; and

(2) ensure that its activities pursuant to this section are designed to avoid duplication with activities carried out under other United States Government foreign assistance and international information, educational, cultural, and exchange programs.

(g) PROHIBITION ON CAMPAIGN FINANCING.—Funds made available to the Democracy Corps under this section may not be expended by the Democracy Corps, or any recipient of a grant from the Democracy Corps, to finance the campaigns of candidates for public office.

(h) FREEDOM OF INFORMATION.—

(1) IN GENERAL.—Notwithstanding the fact that the Democracy Corps is not an agency or establishment of the United States Government, the Democracy Corps shall be required to comply fully with all of the provisions of section 552 of title 5, United States Code.

(2) PUBLICATION IN FEDERAL REGISTER.—For purposes of complying pursuant to paragraph (1) with section 552(a)(1) of title 5, the Democracy Corps shall make available to the Administrator such records and other information as the Administrator determines may be necessary for such purposes. The Administrator shall cause such records and other information to be published in the Federal Register.

(3) AID REVIEW.—In the event that the Democracy Corps determines not to comply with a request for records under section 552 of title 5, the Democracy Corps shall submit a report to the Administrator explaining the reasons for not complying with such request. If the Administrator approves such determination, the Agency for International Development shall assume full responsibility, including financial responsibility, for defending the Democracy Corps in any litigation relating to such request. If the Administrator disapproves such determination, the Democracy Corps shall be required to comply with such request.

(i) ANNUAL REPORTS.—The Board shall be required to submit to the Administrator and the Congress, not later than January 31 each year, a comprehensive report on the activities of the Democracy Corps. Each such report shall list each grant made by the Democracy Corps under subsection (d)(2) during the preceding fiscal year, specifying the grantee and the amount of the grant.

(j) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961, up to $15,000,000 for fiscal year 1993 are authorized to be appropriated for grants to the Democracy Corps under this section, in addition to amounts otherwise available for such purpose.

(k) SUNSET PROVISION.—Grants may not be made to the Democracy Corps under this section after the end of fiscal year 1997.

(l) DEFINITIONS.—As used in this section—

(1) the term "Administrator" means the Administrator of the Agency for International Development; and

(2) the term "Board" means the Board of Directors of the Democracy Corps.

TITLE V—NONPROLIFERATION AND DISARMAMENT PROGRAMS AND ACTIVITIES

SEC. 501.[19] FINDINGS.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of mass destruction of the independent states of the former Soviet Union;

(B) the prevention of proliferation of weapons of mass destruction and destabilizing conventional weapons of the independent states, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the conversion of the massive defense-related industry and equipment of the independent states of the former Soviet Union for civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states.

SEC. 502.[20] ELIGIBILITY.

Funds may be obligated for a fiscal year for assistance or other programs or activities for an independent state of the former Soviet Union under sections 503 and 504 only if the President has certified to the Congress,[21] during that fiscal year, that such independent state is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if that independent state has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons; and

(4) facilitating United States verification of any weapons destruction carried out under section 503(a) or 504(a) of this Act

[19] 22 U.S.C. 5851.

[20] 22 U.S.C. 5852.

[21] In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of Public Law 102–484, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.". (58 F.R. 3193; January 8, 1993).

or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note).[22]

SEC. 503.[23] NONPROLIFERATION AND DISARMAMENT ACTIVITIES IN THE INDEPENDENT STATES.

(a) AUTHORIZATION.—The President is authorized[24] to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons of the independent states of the former Soviet Union;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons of the independent states, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) FUNDING PRIORITIES.—Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

(c) USE OF DEFENSE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the

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[22] For the Soviet Nuclear Threat Reduction Act of 1991, see *Legislation on Foreign Relations Through 1997*, vol. II.

[23] 22 U.S.C. 5853.

[24] In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of Public Law 102–484, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.". (58 F.R. 3193; January 8, 1993).

President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, funds made available pursuant to sections 108 and 109 of Public Law 102–229 or under the amendments made by section 506(a) of this Act.[25]

(2) LIMITATION.—Funds described in paragraph (1) may not be obligated for programs and activities under subsection (a) unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of the discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 504.[26] NONPROLIFERATION AND DISARMAMENT FUND.

(a) AUTHORIZATION.—The President is authorized to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states of the former Soviet Union;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) FUNDING PRIORITIES.—Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

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[25] For title I of Public Law 102–229, see *Legislation on Foreign Relations Through 1997*, vol. II.

[26] 22 U.S.C. 5854. Authorities and duties vested in the President under this section are delegated to the Secretary of State, in consultation with the Secretary of Defense and other appropriate agencies (Presidential memorandum of April 21, 1994; 59 F.R. 21619). Funds appropriated or otherwise made available for the Nonproliferation and Disarmament Fund are, furthermore, allocated to the Secretary of State, by the same memorandum.

(c) USE OF SECURITY ASSISTANCE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, up to $100,000,000 of security assistance funds for fiscal year 1993.

(2) DEFINITION.—As used in paragraph (1), the term "security assistance funds" means funds made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund) or assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(3) EXEMPTION FROM CERTAIN RESTRICTIONS.—Section 531(e) of the Foreign Assistance Act of 1961, and any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology), shall not apply with respect to funds used pursuant to this subsection.

SEC. 505.[27] LIMITATIONS ON DEFENSE CONVERSION AUTHORITIES.

Notwithstanding any other provision of law (including any other provision of this Act), funds may not be obligated in any fiscal year for purposes of facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities, as authorized by sections 503(a)(6) and 504(a)(6) or any other provision of law, unless the President has previously obligated in the same fiscal year an amount equal to or greater than that amount of funds for defense conversion and defense transition activities in the United States. For purposes of this section, the term "defense conversion and defense transition activities in the United States" means those United States Government funded programs whose primary purpose is to assist United States private sector defense workers, United States companies that manufacture or otherwise provide defense goods or services, or United States communities adversely affected by reductions in United States defense spending, such as programs funded through the Office of Economic Adjustment in the Department of Defense, through the Defense Conversion Adjustment Program (as authorized by the Job Training Partnership Act), or through the Economic Development Administration.

SEC. 506.[28] SOVIET WEAPONS DESTRUCTION.

(a)[29] ADDITIONAL FUNDING.—

(1) AUTHORIZATION AMOUNT.—Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is amended by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

[27] 22 U.S.C. 5855.

[28] 22 U.S.C. 5856.

[29] Sec. 1421 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565) made amendments identical to those in subsecs. (a) and (b).

(2) AUTHORIZATION PERIOD.—Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b)[29] TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102–228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102–228 (105 Stat. 1696)"; and

(B) by striking out "of H.R. 3807".

(c)[29] AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section. If that Act enacts such amendments, sections 503 and 508 of this Act shall be deemed to apply with respect to the funds made available under such amendments.

SEC. 507.[30] WAIVER OF CERTAIN PROVISIONS.

(a) IN GENERAL.—Funds made available for fiscal year 1993 under sections 503 and 504 to provide assistance or otherwise carry out programs and activities with respect to the independent states of the former Soviet Union under those sections may be used notwithstanding any other provision of law, other than the provisions cited in subsection (b).

(b) EXCEPTIONS.—Subsection (a) does not apply with respect to—

(1) this title; and

(2) section 1341 of title 31, United States Code (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.

SEC. 508.[31] NOTICE AND REPORTS TO CONGRESS.

(a) NOTICE OF PROPOSED OBLIGATIONS.—Not less than 15 days before obligating any funds under section 503 or 504 or the amendments made by section 506(a), the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees

[30] 22 U.S.C. 5857.
[31] 22 U.S.C. 5858.

a report on the proposed obligation. Each such report shall specify—[32]

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligations; and

(2) the activities and forms of assistance for which the President plans to obligate such funds.

(b) SEMIANNUAL REPORT.—Not later than April 30, 1993, and not later than October 30, 1993, the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the activities carried out under sections 503 and 504 and the amendments made by section 506(a). Each such report shall set forth, for the preceding 6–month period and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies in such activities.

(4) A description of the activities carried out and the forms of assistance provided.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs and activities carried out under sections 503 and 504 and the amendments made by section 506(a).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this section—

(1) the term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs[33] of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

(B) the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of

[32] In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of Public Law 102–484, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.". (58 F.R. 3193; January 8, 1993).

In a memorandum of April 21, 1994 (59 F.R. 21619), authorities and duties vested in the President under this section as they relate to section 504 are delegated to the Secretary of State.

[33] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

Representatives,[34] wherever the account, budget activity, or program is funded from appropriations made under the national defense budget function (050); and

(2) the committee to which the specified activities of section 503(a) or 504(a) or subtitle B of the Soviet Nuclear Threat Reduction Act of 1991[35] (as the case may be), if the subject of separate legislation, would be referred, under the rules of the respective House of Congress.

SEC. 509.[36] INTERNATIONAL NONPROLIFERATION INITIATIVE.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by the International Atomic Energy Agency (IAEA) that are designed to ensure more effective safeguards against nuclear proliferation and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear proliferation through joint technical projects and improved intelligence sharing.

(c) FORM OF ASSISTANCE.—(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

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[34] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[35] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[36] 22 U.S.C. 5859.

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

(d) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section may not exceed $40,000,000. Of such amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection agency in support of the United Nations Special Commission on Iraq.

(4) Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) a report on the proposed obligation. Each such report shall specify—

(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of fiscal year 1993, the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1) and under subsection (d)(2) are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Com-

mittee on Energy and Commerce of the House of Representatives.[37]

(f) AVOIDANCE OF DUPLICATIVE AUTHORIZATIONS.—This section shall not apply if the National Defense Authorization Act for Fiscal Year 1993 enacts the same authorities and requirements as are contained in this section and authorizes the appropriation of the same (or a greater) amount to carry out such authorities.

SEC. 510.[38] REPORT ON SPECIAL NUCLEAR MATERIALS.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare, in consultation with the Secretary of Defense and the Secretary of Energy, and shall transmit to the Congress a report on the possible alternatives for the ultimate disposition of special nuclear materials of the former Soviet Union. This report shall include—

(1) a cost-benefit analysis comparing (A) the relative merits of the indefinite storage and safeguarding of such materials in the independent states of the former Soviet Union and (B) its acquisition by the United States by purchase, barter, or other means;

(2) a discussion of relevant issues such as the protection of United States uranium producers from dumping, the relative vulnerability of these stocks of special nuclear materials to illegal proliferation, and the potential electrical and other savings associated with their being made available in the fuel cycle in the United States; and

(3) a discussion of how highly enriched uranium stocks could be diluted for reactor fuel.

SEC. 511.[39] RESEARCH AND DEVELOPMENT FOUNDATION.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (hereinafter in this section referred to as the "Director") is authorized to establish an endowed, nongovernmental, nonprofit foundation (hereinafter in this section referred to as the "Foundation") in consultation with the Director of the National Institute of Standards and Technology.

(b) PURPOSES.—The purposes of the Foundation shall be the following:

(1) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent the dissolution of the technological infrastructure of the independent states.

(2) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

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[37] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(4) of that Act similarly provided that reference to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce, and sec. 1(a)(5) provided that reference to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[38] 22 U.S.C. 5860.

[39] 22 U.S.C. 5861.

(3) To assist in the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(4) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(5) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(c) FUNCTIONS.—In carrying out its purposes, the Foundation shall—

(1) promote and support joint research and development projects for peaceful purposes between scientists and engineers in the United States and independent states of the former Soviet Union on subjects of mutual interest; and

(2) seek to establish joint nondefense industrial research, development, and demonstration activities through private sector linkages which may involve participation by scientists and engineers in the university or academic sectors, and which shall include some contribution from industrial participants.

(d) FUNDING.—

(1) USE OF CERTAIN DEPARTMENT OF DEFENSE FUNDS.—(A) To the extent funds appropriated to carry out subtitle E of title XIV of the National Defense Authorization Act for Fiscal Year 1993 (relating to joint research and development programs with the independent states of the former Soviet Union) are otherwise available for such purpose, such funds may be made available to the Director for use by the Director in establishing the endowment of the Foundation and otherwise carrying out this section.

(B) For each fiscal year after fiscal year 1993, not more than 50 percent of the funds made available to the Foundation by the United States Government may be funds appropriated in the national defense budget function (function 050).

(2) CONTRIBUTION TO ENDOWMENT BY PARTICIPATING INDEPENDENT STATES.—As a condition of participation in the Foundation, an independent state of the former Soviet Union must make a minimum contribution to the endowment of the Foundation, as determined by the Director, which shall reflect the ability of the independent state to make a financial contribution and its expected level of participation in the Foundation's programs.

(3) DEBT CONVERSIONS.—To the extent provided in advance by appropriations Acts, local currencies or other assets resulting from government-to-government debt conversions may be made available to the Foundation. For purposes of this paragraph, the term "debt conversion" means an agreement whereby a country's government-to-government or commercial exter-

nal debt burden is exchanged by the holder for local currencies, policy commitments, other assets, or other economic activities, or for an equity interest in an enterprise theretofore owned by the debtor government.

(4) LOCAL CURRENCIES.—In addition to other uses provided by law, and subject to agreement with the foreign government, local currencies generated by United States assistance programs may be made available to the Foundation.

(5) INVESTMENT OF GOVERNMENT ASSISTANCE.—The Foundation may invest any revenue provided to it through United States Government assistance, and any interest earned on such investment may be used only for the purpose for which the assistance was provided.

(6) OTHER FUNDS FROM GOVERNMENT AND NONGOVERNMENTAL SOURCES.—The Foundation may accept such other funds as may be provided to it by Government agencies or nongovernmental entities.

TITLE VI—SPACE TRADE AND COOPERATION

SEC. 601.[40] FACILITATING DISCUSSIONS REGARDING THE ACQUISITION OF SPACE HARDWARE, TECHNOLOGY, AND SERVICES FROM THE FORMER SOVIET UNION.

(a) EXPEDITED REVIEW.—Any request for a license or other approval described in subsection (c) that is submitted to any United States Government agency by the National Aeronautics and Space Administration, any of its contractors, or any other person shall be considered on an expedited basis by that agency and any other agency involved in an applicable interagency review process.

(b) NOTICE TO CONGRESS IF LICENSE DENIED.—If any United States Government agency denies a request for a license or other approval described in subsection (c), that agency shall immediately notify the designated congressional committees. Each such notification shall include a statement of the reasons for the denial.

(c) DESCRIPTION OF DISCUSSIONS.—This section applies to a request for any license or other approval that may be necessary to conduct discussions with an independent state of the former Soviet Union with respect to the possible acquisition of any space hardware, space technology, or space service for integration into—

(1) United States space projects that have been approved by the Congress, or

(2) commercial space ventures,

including discussions relating to technical evaluation of such hardware, technology, or service.

SEC. 602.[41] OFFICE OF SPACE COMMERCE.

(a) TRADE MISSIONS.—The Office of Space Commerce of the Department of Commerce is authorized and encouraged to conduct one or more trade missions to appropriate independent states of the former Soviet Union for the purpose of familiarizing United States aerospace industry representatives with space hardware, space technologies, and space services that may be available from

[40] 22 U.S.C. 5871.
[41] 22 U.S.C. 5872.

the independent states, and with the business practices and overall business climate in the independent states.

(b) MONITORING NEGOTIATIONS.—The Office of Space Commerce—

(1) shall monitor the progress of any discussions described in section 601(c)(1) that are being conducted; and

(2) shall advise the Administrator of the National Aeronautics and Space Administration as to the impact on United States industry of each potential acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union, specifically including any anticompetitive issues the Office may observe.

SEC. 603.[42] REPORT TO CONGRESS.

Within one year after the date of enactment of this title, the President shall submit to the designated congressional committees a report describing—

(1) the opportunities for increased space-related trade with the independent states of the former Soviet Union;

(2) a technology procurement plan for identifying and evaluating all unique space hardware, space technology, and space services available to the United States from the independent states;

(3) specific space hardware, space technology, and space services that have been, or could be, the subject of discussions described in section 601(c);

(4) the trade missions carried out pursuant to section 602(a), including the private participation in and the results of such missions;

(5) any barriers, regulatory or practical, that inhibit space-related trade between the United States and independent states, including any such barriers in either the United States or the independent states; and

(6) any anticompetitive issues raised during the course of negotiations, as observed pursuant to section 602(b).

SEC. 604.[43] DEFINITIONS.

For purposes of this title—

(1) the term "contractor" means a National Aeronautics and Space Administration contractor to the extent that the acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union may be relevant to the contractor's responsibilities under the contract; and

(2) the term "designated congressional committees" means the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives[44] and the Committee on Commerce, Science, and Trans-

[42] 22 U.S.C. 5873.

[43] 22 U.S.C. 5874.

[44] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(10) of that Act similarly provided that references to the Committee on Science, Space, and Technology shall be treated as referring to the Committee on Science.

portation and the Committee on Foreign Relations of the Senate.

TITLE VII—AGRICULTURAL TRADE

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SEC. 703. ASSISTANCE FOR PRIVATE VOLUNTARY ORGANIZATIONS.

The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

SEC. 704. DISTRIBUTION OF AID TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

It is the sense of Congress that, in order to avoid waste and to ensure fair and equitable distribution of food and commodities provided to the independent states of the former Soviet Union, the President should, as appropriate, when discussing and planning the provision of such food aid, whether acting unilaterally or multilaterally with other donor countries, encourage the involvement of suitable multinational organizations to monitor the transport and distribution of such food aid within such entities.

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SEC. 707. DIRECT CREDIT SALES.

(a) * * *

(b) * * *

(c) * * *

(d)[45] * * * [Repealed—1996]

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TITLE VIII—UNITED STATES INFORMATION AGENCY, DEPARTMENT OF STATE, AND RELATED AGENCIES AND ACTIVITIES

SEC. 801.[46] DESIGNATION OF EDMUND S. MUSKIE FELLOWSHIP PROGRAM. * * *

SEC. 802. NEW DIPLOMATIC POSTS IN THE INDEPENDENT STATES.

There are authorized to be appropriated for "NEW DIPLOMATIC POSTS" for personnel, support, and other expenses, not otherwise provided for, for the Department of State and the United States In-

[45] 22 U.S.C. 5621 note. Subsec. (a) through (c) of this section amended the Agricultural Trade Act of 1978 at sec. 201 (7 U.S.C. 5621). Subsec. (d), struck out by sec. 276 of Public Law 104–127 (110 Stat. 977) required that the Secretary of Agriculture issue final regulations to implement section 201 of the Agricultural Trade Act of 1978 not later than 30 days after the date of enactment of this Act.

[46] Sec. 801 amended sec. 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note), relating to the Edmund S. Muskie Fellowship Program.

formation Agency to establish and operate new diplomatic posts in the independent states of former Soviet Union, $25,000,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.

SEC. 803.[47] OCCUPANCY OF NEW CHANCERY BUILDINGS. * * *

SEC. 804. CERTAIN POSITIONS AT UNITED STATES MISSIONS.

(a)[48] AMENDMENT.—* * *

(b)[49] FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act, funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by subsection (a) with respect to missions in the independent states of the former Soviet Union.

SEC. 805.[50] INTERNATIONAL DEVELOPMENT LAW INSTITUTE.

For purposes of the International Organizations Immunities Act (22 U.S.C. 288 and following), the International Development Law Institute shall be considered to be a public international organization in which the United States participates under the authority of an Act of Congress authorizing such participation.

SEC. 806.[51] CERTAIN BOARD FOR INTERNATIONAL BROADCASTING CONSTRUCTION ACTIVITIES.* * *

SEC. 807.[52] EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.

(a) FUNDING FOR EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out a broad spectrum of exchanges, and of training and similar programs to promote the objectives described in section 498 of the Foreign Assistance Act of 1961, between the United States and the independent states of the former Soviet Union, there are authorized to be appropriated for fiscal year 1993 (in addition to amounts otherwise available for such purposes) the following:

(A) $20,000,000 for exchange programs for secondary school students.

(B) $30,000,000 for programs for participants other than secondary school students, including undergraduate and graduate students, farmers and other agribusiness practitioners, and participants in the exchanges carried out under paragraph (2).

(2) LOCAL AND REGIONAL SELF-GOVERNMENT EXCHANGES.—The Director of the United States Information Agency is authorized to use funds authorized to be appropriated by paragraph (1)(B) to conduct exchanges to provide technical assist-

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[47] Sec. 803 repealed subsecs. (f) and (g) of section 132 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

[48] Sec. 804(a) amended the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 at sec. 1004(a). For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[49] 22 U.S.C. 4903 note.

[50] 22 U.S.C. 288j. For International Organizations Immunities Act (Public Law 79–291), see *Legislation on Foreign Relations Through 1997*, vol. II.

[51] Sec. 806 amended the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (104 Stat. 63), at sec. 301(c). For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[52] 22 U.S.C. 2452 note.

ance in local and regional self-government to the independent states.

(3) REPORT ON PROPOSED FUNDING ALLOCATIONS.—Within 45 days after the date of the enactment of this Act, the coordinator designated pursuant to section 102(a) of this Act shall submit to the Congress a report specifying the amount of funds authorized to be appropriated by paragraph (1) that is proposed to be allocated for each category of program and for each Government agency.

(4) PROGRAM ADMINISTRATION.—

(A) USIA.—Educational, cultural, and any other exchange programs carried out under this subsection, including any such programs for secondary school students, shall be administered by the United States Information Agency, and funds allocated for such programs shall be transferred to that Agency.

(B) OTHER AGENCIES.—Training and other non-exchange programs carried out under this subsection shall be administered by the Agency for International Development or such other Government agency as has experience and expertise in carrying out such programs.

(5) ADMINISTRATIVE EXPENSES.—Up to 5 percent of the funds made available to each Government agency under this subsection may be used by that agency for administrative expenses of program implementation.

(b) ENHANCEMENT OF USIA EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the United States Information Agency for fiscal year 1993 for enhancement of existing educational and cultural exchange programs the following:

(1) $9,950,000 for Fulbright Academic Exchange Programs.

(2) $10,850,000 for other programs administered by the Bureau of Educational and Cultural Affairs.

(c)[53] REPEAL.—Effective 6 months after the date of enactment of this Act, section 225 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and the item relating to that section in the table of contents set forth in section 2 of that Act, are repealed.

(d)[54] AGRIBUSINESS EXCHANGES.—

(1) AUTHORIZATION.—The President is authorized to establish regional agribusiness offices at State universities and land grant colleges in the United States for the purpose of expanding exchanges between agribusiness practitioners in the United States and agribusiness practitioners in the independent states of the former Soviet Union.

(2) LIMITATION ON FUNDING SOURCES.—Funds authorized to be appropriated by this section or other provisions of this Act

[53] 22 U.S.C. 2452 note.

[54] Section 4 of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Secretary of Agriculture those functions conferred upon the President in sec. 807(d). This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102).

(including chapter 11 of part I of the Foreign Assistance Act of 1961) may not be used to carry out this subsection.

TITLE IX—OTHER PROVISIONS

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SEC. 902.[55] JOHNSON ACT.

Section 955 of title 18, United States Code, shall not apply with respect to any obligations of the former Soviet Union, or any of the independent states of the former Soviet Union, or any political subdivision, organization, or association thereof.

SEC. 903. SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) ACT.

(a) SCOPE OF AUTHORITY.—The Support for East European Democracy (SEED) Act of 1989 is amended by inserting after section 2 (22 U.S.C. 5401) the following: * * *

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SEC. 906.[56] ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES.

(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act, or

(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

(b) DEFINITIONS.—As used in this section—

(1) the term "defense article" has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

(2) the term "excess defense article" has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

SEC. 907.[57] RESTRICTION ON ASSISTANCE TO AZERBAIJAN.

United States assistance under this or any other Act (other than assistance under title V of this Act) may not be provided to the

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[55] 18 U.S.C. 955 note. For text of the Johnson Act (Public Law 80–772), see *Legislation on Foreign Relations Through 1997*, vol. III.

[56] 22 U.S.C. 2753 note.

[57] 22 U.S.C. 5812 note. Section 1(a)(1) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Secretary of State those functions conferred upon the President in sec. 907.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2397), provided the following:

"ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

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Continued

Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.

TITLE X—INTERNATIONAL FINANCIAL INSTITUTIONS

NOTE.—Title X amended several Public Laws relating to international financial institutions. See International Financial Institutions in *Legislation on Foreign Relations Through 1997*, vol. III.

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SEC. 1004.[58] SUPPORT FOR MACROECONOMIC STABILIZATION IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) IN GENERAL.—In order to promote macroeconomic stabilization and the integration of the independent states of the former Soviet Union into the international financial system, enhance the opportunities for trade, improve the climate for foreign investment, and strengthen the process of transformation of the former socialist economies into free enterprise systems and thereby progressively enhance the well-being of the citizens of these states, the United States should in appropriate circumstances take a leading role in organizing and supporting multilateral efforts at macroeconomic stabilization and debt rescheduling, conditioned on the appropriate development and implementation of comprehensive economic reform programs.

(b) CURRENCY STABILIZATION.—In furtherance of the purposes and consistent with the conditions described in subsection (a), the Congress expresses its support for United States participation, in sums of up to $3,000,000,000, in a currency stabilization fund or funds for the independent states of the former Soviet Union.

(c) STUDY OF THE NEED FOR AND FEASIBILITY OF A CURRENCY STABILIZATION FUND FOR UKRAINE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to urge the Fund to conduct a study of the need for and feasibility of a currency stabilization fund for Ukraine, and, if it is found that such a fund is needed and is feasible, which considers

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"(n) Funds made available under this Act or any other Act may not be provided for assistance to the Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades against Armenia and Nagorno-Karabakh: *Provided*, That the restriction of this subsection and section 907 of the FREEDOM Support Act shall not apply to—

"(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 [relating to international border security among the states of the former Soviet Union, the Baltic States, and other countries of Eastern Europe];

"(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421); and

"(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity.".

[58] 22 U.S.C. 5812 note.

and makes recommendations with respect to the economic and policy conditions required for the success of such a fund.

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SEC. 1007.[59] REPORT ON DEBT OF THE FORMER SOVIET UNION HELD BY COMMERCIAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury, using information available from the International Monetary Fund, the International Bank for Reconstruction and Development, and other appropriate international financial institutions, shall report to the Congress, not later than one year after the date of enactment of this Act, on the debt incurred by the former Soviet Union that is held by commercial financial institutions outside the independent states of the former Soviet Union that are obligated on such debt.

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SEC. 1009. MULTILATERAL INVESTMENT GUARANTEES FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Not later than 60 days after the date of enactment of this Act, the United States Director of the Multilateral Investment Guarantee Agency shall transmit to the Congress a report analyzing—

(1) the investments in the independent states of the former Soviet Union which have been guaranteed by the Agency; and

(2) the demand for investment guarantees of the type provided by the Agency for investments in the independent states.

[59] 22 U.S.C. 5812 note.

(3) Emergency Airlift to the Soviet Union

Partial text[1] of Public Law 102–228 [Conventional Forces in Europe Treaty Implementation Act of 1991; H.R. 3807], 105 Stat. 1691, approved December 12, 1991

AN ACT To amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

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

SECTION 1.[2] SHORT TITLE.

This Act may be cited as the "Conventional Forces in Europe Treaty Implementation Act of 1991".

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TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301.[3] AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of anti-democratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate

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[1] See also *Legislation on Foreign Relations Through 1997,* vol. II.

[2] 22 U.S.C. 2751 note.

[3] While this section was enacted to authorize the transfer of funds for Soviet humanitarian assistance, Public Law 102–229 (105 Stat. 1701) originally referred to sec. 301 of H.R. 3807, as passed by the Senate on November 25, 1991, when it appropriated funds or transferred funds for that assistance. In a January 21, 1992, memorandum for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President also referred to sec. 301 of H.R. 3807, as passed by the Senate on November 25, 1991, when he directed the Secretary of Defense to make certain transfers, and delegated certain authorities and duties to the Secretary.

Subsequently, sec. 1421(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565) made technical corrections to Public Law 102–229 to omit references to H.R. 3807 and insert in lieu thereof references to this Act.

defense accounts sufficient funds, not to exceed $100,000,000, from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the President. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) REPORTS BY THE SECRETARY OF STATE.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) SOURCE OF FUNDS.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) EMERGENCY REQUIREMENTS.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) REPAYMENT ARRANGEMENTS.—

(1) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Gov-

ernment pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) PRIOR NOTICE.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives[4] of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) REPORTS TO THE CONGRESS.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.[5] This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

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[4] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[5] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act similarly provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

(4) Soviet-Eastern European Education and Training Programs in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993

Partial text of Public Law 102–138 [H.R. 1415], 105 Stat. 647, approved October 28, 1991; amended by Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

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TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—UNITED STATES INFORMATION AGENCY

SEC. 210.[1] CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.

(a) PURPOSE.—It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable high school and college students from emerging democracies, who are visiting the United States, to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) GRANTS.—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c)[2] AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this section, of which not more than $500,000 is authorized to be available for obligation or expenditure during that fiscal year. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

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PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to

[1] 22 U.S.C. 2452 note.

[2] The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided under educational and cultural exchange programs, that "$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation".

the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts: * * *[3]

(5) OTHER PROGRAMS.—For "East Europe Training Projects", "Citizen Exchange Programs", and the "Congress-Bundestag Exchange Program", $14,028,000 for the fiscal year 1992 and $14,700,000 for the fiscal year 1993.

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(9) SOVIET-AMERICAN INTERPARLIAMENTARY EXCHANGES.—For the expenses of Soviet-American Interparliamentary meetings and visits in the United States approved by the joint leadership of the Congress, after an opportunity for appropriate consultation with the Secretary of State and the Director of the United States Information Agency, there are authorized to be appropriated $2,000,000 for the fiscal year 1992, of which not more than $1,000,000 shall be available for obligation or expenditure during that fiscal year. Amounts appropriated under this subsection are authorized to be available until expended.

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SEC. 225.[4] * * * [Repealed—1992]

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[3] The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 822), provided the following:

"EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

"For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $194,232,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which $1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation.".

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided the following:

"EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

"For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $223,447,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which $200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and $600,000 shall be available for the Institute of Representative Government.".

[4] Formerly at 22 U.S.C. 2452 note. Sec. 807(c) of the FREEDOM Support Act (Public Law 102–511; 3354) repealed sec. 225, effective 6 months after the date of enactment of that Act [enacted October 24, 1992].

Sec. 225 formerly read as follows:

"EASTERN EUROPE STUDENT EXCHANGE ENDOWMENT FUND.

"(a) ESTABLISHMENT OF FEDERAL ENDOWMENT.—The Director of the United States Information Agency is authorized to establish an endowment fund (hereafter in this section referred to as the 'fund'), in accordance with the provisions of this section, to support an exchange program among secondary school students from the United States and secondary school students from former Warsaw Pact countries in Eastern Europe, including from the territory formerly known as East Germany. The Director may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) TRANSFER.—

"(1) APPROPRIATIONS AND OTHER AVAILABLE FUNDS.—The Director shall transfer to the fund the amounts appropriated pursuant to the authority of subsection (f) to carry out the exchange program under this section.

"(2) GIFTS.—(A) The Director is authorized to accept, use, and dispose of gifts of donations of services or property to carry out the provisions of this section.

"(B) Any sums received by the Director pursuant to subparagraph (A) shall be transferred to the fund.

SEC. 226.[5] ENHANCED EDUCATIONAL EXCHANGE PROGRAM.

(a) PROGRAMS FOR FOREIGN STUDENTS AND SCHOLARS.—

(1) Not later than September 30, 1993, the number of scholarships provided to foreign students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in the United States shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only—

(A) to students and scholars from the new democracies of Eastern Europe,

(B) to students and scholars from the Soviet Union;

(C) to students and scholars from countries determined by the Associate Director of the Bureau of Educational and Cultural Affairs to be not adequately represented in the foreign student population in the United States.

(b) PROGRAMS FOR UNITED STATES STUDENTS AND SCHOLARS.—

(1) Not later than September 30, 1993, the number of scholarships provided to United States students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in other countries shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only for study, research, and teaching in the new democracies of Eastern Europe, the Soviet Union, and non-European countries.

(c) DEFINITION.—For the purposes of this section, the term "scholarship" means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books and supplies, equipment required for courses at an educational institution, and living expenses at a United States or foreign educational institution.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for the Bureau of Educational and Cultural Affairs, there are authorized to be appropriated $2,000,000 for fiscal year 1992 and $2,000,000 for fiscal

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"(3) IN GENERAL.—The Director in investing the corpus and income of the fund, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(4) SPECIAL RULE.—The fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities.

"(c) WITHDRAWALS AND EXPENDITURES.—The Director may withdraw or expend amounts from the fund for any expenses necessary to carry out the exchange program described in subsection (a).

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'secondary school' has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965; and

"(2) the term 'Director' means the Director of the United States Information Agency.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this subsection are authorized to be available until expended.".

[5] 22 U.S.C. 2452 note.

year 1993 to carry out the purposes of this section. Amounts appropriated under this subsection are authorized to be available until expended.

SEC. 227.[5] LAW AND BUSINESS TRAINING PROGRAM FOR GRADUATE STUDENTS FROM THE SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA.

(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish a scholarship program designed to bring students from the Soviet Union, Lithuania, Latvia, and Estonia to the United States for study in the United States.

(b) SCHOLARSHIP PROGRAM AUTHORITY.—Subject to the availability of appropriations under subsection (d), the President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher education together with private and public sector internships by nationals of the Soviet Union, Lithuania, Latvia, and Estonia who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency should develop and strictly implement specific financial need criteria. Scholarships under this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant shall be selected on the basis of academic and leadership potential in the fields of business administration, economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic reform and political development in the Soviet Union, Lithuania, Latvia, and Estonia, particularly business administration, economics, law, or public administration.

(6) The program shall be flexible to include not only training and educational opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the Soviet republics, Lithuania, Latvia, and Estonia.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this section that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

(d) FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.—There are authorized to be appropriated to the United States Information Agency $7,000,000 for fiscal year 1992, and $7,000,000 for fiscal year 1993, to carry out this section.

(e) COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.—Any authority provided by this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(f)[6] DESIGNATION OF PROGRAM AND SCHOLARSHIPS.—

(1) The scholarship program established by this section shall be known as the "Edmund S. Muskie Fellowship Program".

(2) Scholarships provided under this section shall be known as "Muskie Fellowships".

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[6] Sec. 801 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3352) added subsec. (f).

(5) Eisenhower Exchange Fellowship Act of 1990

Public Law 101–454 [S. 2017], 104 Stat. 1063, approved October 24, 1990; amended by Public Law 104–72 [S. 1465], 109 Stat. 776, approved December 23, 1995; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in sec. 301 of H.R. 2880, 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–134 [H.R. 3019; Omnibus Consolidated Rescissions and Appropriations Act of 1996, title I, sec. 101(a), title IV, Department of State and Related Agencies Appropriations Act, 1996], 110 Stat. 1321 at 1321–36, approved April 26, 1996

AN ACT To provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2.[2] PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's[3] of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their profes-

[1] 20 U.S.C. 5201 note.
[2] 20 U.S.C. 5201.
[3] So in original. Should read peoples.

sional careers, and advancement of peace through international understanding.

SEC. 3.[4] EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATIONS.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests[5] by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other than interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 4.[6] EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller

[4] 20 U.S.C. 5202.
[5] Should probably read "interest".
[6] 20 U.S.C. 5203.

General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 5.[7] AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $2,500,000, or

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4–year period beginning on the date of enactment of this Act.

SEC. 6.[8] USE OF INCOME ON THE ENDOWMENT.

(a)[9] * * * [Repealed—1996]

(b)[9] * * * [Repealed—1996]

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated,

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[7] 20 U.S.C. 5204. Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997 (sec. 101(a) of title I of Public Law 104–208; 110 Stat. 3009), provided the following:

"EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

"For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1998, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.".

[8] 20 U.S.C. 5205.

[9] Sec. 407 of the Department of State and Related Agencies Appropriations Act, 1996 [title IV of Public Law 104–134; 110 Stat. 1321–45], repealed subsecs. 6(a) and (b). The subsecs. had read as follows:

"(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

"(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.".

Sec. 407 of Public Law 104–134 further provided:

"SEC. 407. Sections 6(a) and 6(b) of Public Law 101–454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998.".

are representatives of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7.[10] REPORT TO CONGRESS.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8.[11] [Repealed—1995]

* * * * * * *

[10] 20 U.S.C. 5206.

[11] Sec. 1(a) of Public Law 104–72 (109 Stat. 776) repealed sec. 8, which had extended the authority of USIA to implement an au pair program.

(6) Assistance to Eastern Europe and Yugoslavia

Partial text of Public Law 101–243 [Urgent Assistance for Democracy in Panama Act of 1990; H.R. 3952], 104 Stat. 7, approved February 14, 1990

AN ACT To authorize certain United States assistance and trade benefits for Panama and for other purposes.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "Urgent Assistance for Democracy in Panama Act of 1990".

TITLE I—PANAMA [1]

* * * * * * *

TITLE II—EASTERN EUROPE AND YUGOSLAVIA

SEC. 201. ASSISTANCE TO SUPPORT TRANSITION TO DEMOCRACY.

(a) AUTHORITY.—Notwithstanding any other provision of law, the President may use up to $10,000,000 of the funds appropriated for fiscal year 1990 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) to support the process of democratic transition in East European countries and Yugoslavia, in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—Funds provided under this section shall be made available only—

(1) after the President has certified to the Congress that the country where funds are being expended has had, or is scheduled to have, open and free multiparty national or regional elections; and

(2) in such a manner so as to benefit substantially a full range of non-Communist political parties in the countries in which such funds are used.

[1] Title I may be found at page 219.

(7) Support for East European Democracy (SEED) Act of 1989

Public Law 101–179 [H.R. 3402], 103 Stat. 1298, approved November 28, 1989; amended by Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–549 [Jobs Through Exports Act of 1992; H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; and by Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997

AN ACT To promote political democracy and economic pluralism in Poland and Hungary by assisting those nations during a critical period of transition and abetting the development in those nations of private business sectors, labor market reforms, and democratic institutions; to establish, through these steps, the framework for a composite program of support for East European Democracy (SEED).

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

SECTION 1.[1] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Support for East European Democracy (SEED) Act of 1989".

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

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[1] 22 U.S.C. 5401 note.

[2] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

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SEC. 2.[3] SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.

(a) SEED PROGRAM.—The United States shall implement, beginning in fiscal year 1990, a concerted Program of Support for East

[3] 22 U.S.C. 5401. Titles II and III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2394, 2401), provided the following:

"ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

"(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $485,000,000, to remain available until September 30, 1999, which shall be available, notwithstanding any other provi-

European Democracy (which may also be referred to as the "SEED Program"). The SEED Program shall be comprised of diverse undertakings designed to provide cost-effective assistance to those countries of Eastern Europe that have taken substantive steps toward institutionalizing political democracy and economic pluralism.

(b) OBJECTIVES OF SEED ASSISTANCE.—The President should ensure that the assistance provided to East European countries pursuant to this Act is designed—

(1) to contribute to the development of democratic institutions and political pluralism characterized by—

(A) the establishment of fully democratic and representative political systems based on free and fair elections,

(B) effective recognition of fundamental liberties and individual freedoms, including freedom of speech, religion, and association,

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sion of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

"(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

"(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

"(d) None of the funds appropriated under this heading may be made available for new housing construction or repair or reconstruction of existing housing in Bosnia and Herzegovina unless directly related to the efforts of United States troops to promote peace in said country.

"(e) With regard to funds appropriated or otherwise made available under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program)—

"(1) the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee; and

"(2) the provisions of section 532 of this Act shall apply.

"(f) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has not been terminated.

"(g) Not to exceed $200,000,000 of the funds appropriated under this heading may be made available for Bosnia and Herzegovina exclusive of assistance for police training.

"(h) Not to exceed $7,000,000 of the funds made available for Bosnia and Herzegovina may be made available for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees for said country.

* * * * * * *

"FOREIGN MILITARY FINANCING PROGRAM

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,296,550,000: * * * *Provided further*, That of the funds appropriated by this paragraph, a total of $18,300,000 should be available for assistance for Estonia, Latvia, and Lithuania: *Provided further*, That none of the funds made available under this heading shall be available for any non-NATO country participating in the Partnership for Peace Program except through the regular notification procedures of the Committees on Appropriations: *Provided further*, * * * That $50,000,000 of the funds appropriated or otherwise made available under this heading should be made available for the purpose of facilitating the integration of Poland, Hungary, and the Czech Republic into the North Atlantic Treaty Organization... * * *.".

(C) termination of all laws and regulations which impede the operation of a free press and the formation of political parties,

(D) creation of an independent judiciary, and

(E) establishment of non-partisan military, security, and police forces;

(2) to promote the development of a free market economic system characterized by—

(A) privatization of economic entities,

(B) establishment of full rights to acquire and hold private property, including land and the benefits of contractual relations,

(C) simplification of regulatory controls regarding the establishment and operation of businesses,

(D) dismantlement of all wage and price controls,

(E) removal of trade restrictions, including on both imports and exports,

(F) liberalization of investment and capital, including the repatriation of profits by foreign investors;

(G) tax policies which provide incentives for economic activity and investment,

(H) establishment of rights to own and operate private banks and other financial service firms, as well as unrestricted access to private sources of credit, and

(I) access to a market for stocks, bonds, and other instruments through which individuals may invest in the private sector; and

(3) not to contribute any substantial benefit—

(A) to Communist or other political parties or organizations which are not committed to respect for the democratic process, or

(B) to the defense or security forces of any member country of the Warsaw Pact.

(c) SEED ACTIONS.—Assistance and other activities under the SEED Program (which may be referred to as "SEED Actions") shall include activities such as the following:

(1) LEADERSHIP IN THE WORLD BANK AND INTERNATIONAL MONETARY FUND.—United States leadership in supporting—

(A) loans by the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group that are designed to modernize industry, agriculture, and infrastructure, and

(B) International Monetary Fund programs designed to stimulate sound economic growth.

(2) CURRENCY STABILIZATION LOANS.—United States leadership in supporting multilateral agreement to provide government-to-government loans for currency stabilization where such loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

(3) DEBT REDUCTION AND RESCHEDULING.—Participation in multilateral activities aimed at reducing and rescheduling a country's international debt, when reduction and deferral of debt payments can assist the process of political and economic transition.

(4) AGRICULTURAL ASSISTANCE.—Assistance through the grant and concessional sale of food and other agricultural commodities and products when such assistance can ease critical shortages but not inhibit agricultural production and marketing in the recipient country.

(5) ENTERPRISE FUNDS.—Grants to support private, nonprofit "Enterprise Funds", designated by the President pursuant to law and governed by a Board of Directors, which undertake loans, grants, equity investments, feasibility studies, technical assistance, training, and other forms of assistance to private enterprise activities in the Eastern European country for which the Enterprise Fund so is designated.

(6) LABOR MARKET-ORIENTED TECHNICAL ASSISTANCE.—Technical assistance programs directed at promoting labor market reforms and facilitating economic adjustment.

(7) TECHNICAL TRAINING.—Programs to provide technical skills to assist in the development of a market economy.

(8) PEACE CORPS.—Establishment of Peace Corps programs.

(9) SUPPORT FOR INDIGENOUS CREDIT UNIONS.—Support for the establishment of indigenous credit unions.

(10) GENERALIZED SYSTEM OF PREFERENCES.—Eligibility for trade benefits under the Generalized System of Preferences.

(11) MOST FAVORED NATION TRADE STATUS.—The granting of temporary or permanent nondiscriminatory treatment (commonly referred to as "most favored nation status") to the products of an East European country through the application of the criteria and procedures established by section 402 of the Trade Act of 1974 (19 U.S.C. 2432; commonly referred to as the "Jackson-Vanik amendment").[4]

(12) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Programs of the Overseas Private Investment Corporation.

(13) EXPORT-IMPORT BANK PROGRAMS.—Programs of the Export-Import Bank of the United States.

(14) TRADE AND DEVELOPMENT AGENCY[5] ACTIVITIES.—Trade and Development Agency[5] activities under the Foreign Assistance Act of 1961.

(15) INVESTMENT TREATIES.—Negotiation of bilateral investment treaties.

(16) SPECIAL TAX TREATMENT OF BELOW-MARKET LOANS.—Exempting bonds from Internal Revenue Code rules relating to below-market loans.

(17) EXCHANGE ACTIVITIES.—Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the United States Information Agency.

(18) CULTURAL CENTERS.—Contributions toward the establishment of reciprocal cultural centers that can facilitate educational and cultural exchange and expanded understanding of Western social democracy.

(19) SISTER INSTITUTIONS.—Establishment of sister institution programs between American and East European schools

[4] See *Legislation on Foreign Relations Through 1997*, vol. III.

[5] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

and universities, towns and cities, and other organizations in such fields as medicine and health care, business management, environmental protection, and agriculture.

(20) SCHOLARSHIPS.—Scholarships to enable students to study in the United States.

(21) SCIENCE AND TECHNOLOGY EXCHANGES.—Grants for the implementation of bilateral agreements providing for cooperation in science and technology exchange.

(22) ASSISTANCE FOR DEMOCRATIC INSTITUTIONS.—Assistance designed to support the development of legal, legislative, electoral, journalistic, and other institutions of free, pluralist societies.

(23) ENVIRONMENTAL ASSISTANCE.—Environmental assistance directed at overcoming crucial deficiencies in air and water quality and other determinants of a healthful society.

(24) MEDICAL ASSISTANCE.—Medical assistance specifically targeted to overcome severe deficiencies in pharmaceuticals and other basic health supplies.

(25) ENCOURAGEMENT FOR PRIVATE INVESTMENT AND VOLUNTARY ASSISTANCE.—Encouraging private investment and voluntary private assistance, using a variety of means including a SEED Information Center System and the provision by the Department of Defense of transportation for private nonfinancial contributions.

SEC. 3.[6] SCOPE OF AUTHORITY.

(a) GENERAL AUTHORIZATION.—The President is authorized to conduct activities for any East European country that are similar to any activity authorized by this Act to be conducted in Poland or Hungary (excluding those authorized by section 102 or the amendments made by sections 301 and 304) if such similar activities would effectively promote a transition to market-oriented democracy.

(b) ADMINISTRATION OF JUSTICE PROGRAMS.—In order to strengthen the administration of justice in East European countries, the President may exercise the same authorities with respect to those countries as are available under section 534 of the Foreign Assistance Act of 1961, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

(c) DEFINITION OF EAST EUROPEAN COUNTRY.—For purposes of this Act, the term "East European country" includes Albania, Bulgaria, the Czech and Slovak Federal Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and states that were part of the former Socialist Federal Republic of Yugoslavia.

TITLE I—STRUCTURAL ADJUSTMENT

SEC. 101.[7] MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND AND HUNGARY.

(a) MULTILATERAL ASSISTANCE FOR POLAND AND HUNGARY.—

[6] 22 U.S.C. 5402. Sec. 903 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3355) added sec. 3.
[7] 22 U.S.C. 5411.

(1) IN GENERAL.—To the extent that Poland and Hungary continue to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall take the leadership in mobilizing international financial institutions, in particular the International Monetary Fund and the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group, to provide timely and appropriate resources to help Poland and Hungary.

(2) WORLD BANK STRUCTURAL ADJUSTMENT LOAN FOR POLAND.—In furtherance of paragraph (1), the Secretary of the Treasury shall direct the United States Executive Director of the International Bank for Reconstruction and Development to urge expeditious approval and disbursement by the Bank of a structural adjustment loan to Poland in an appropriate amount in time to facilitate the implementation of major economic reforms scheduled for early 1990, including the termination of energy, export, and agricultural subsidies and wage indexation.

(b) STABILIZATION ASSISTANCE, DEBT RELIEF, AND AGRICULTURAL ASSISTANCE FOR POLAND.—To the extent that Poland continues to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall do the following:

(1) STABILIZATION ASSISTANCE.—The United States Government, in conjunction with other member governments of the Organization of Economic Cooperation and Development (OECD) and international financial institutions (including the International Monetary Fund), shall support the implementation of a plan of the Government of Poland to attack hyperinflation and other structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Poland, through the use of mechanisms such as—

(A) the Exchange Stabilization Fund pursuant to section 5302 of title 31, United States Code, and in accordance with established Department of the Treasury policies and procedures; and

(B) the authority provided in section 102(c) of this Act.

(2) DEBT RELIEF.—The United States Government—

(A) shall urge all members of the "Paris Club" of creditor governments and other creditor governments to adopt, and participate in, a generous and early rescheduling program for debts owed by the Government of Poland; and

(B) in coordination with other creditor governments, shall seek to expedite consultations between the Government of Poland and its major private creditors in order to facilitate a rescheduling and reduction of payments due on debt owed to such creditors in a manner consistent with the international debt policy announced by the Secretary of the Treasury on March 10, 1989.

(3) AGRICULTURAL ASSISTANCE.—The United States Government shall provide agricultural assistance for Poland in accordance with section 103.

SEC. 102.[8] STABILIZATION ASSISTANCE FOR POLAND.

(a) IMMEDIATE EMERGENCY ASSISTANCE.—To the extent that the ongoing International Monetary Fund review of the Polish economy projects a probable balance of payments shortage for the fourth quarter of 1989, the United States Government, in carrying out paragraph (1) of section 101(b)—

(1) should work closely with the European Community and international financial institutions to determine the extent of emergency assistance required by Poland for the fourth quarter of 1989, and

(2) should consider extending a bridge loan to relieve immediate and urgent balance of payments requirements using the Exchange Stabilization Fund in accordance with paragraph (1)(A) of section 101(b).

(b) IMMEDIATE, MULTILATERAL RESPONSE TO POLAND'S ECONOMIC STABILIZATION NEEDS.—In furtherance of section 101(b)(1), the President, acting in coordination with the European Community, should seek to ensure that the industrialized democracies undertake an immediate, multilateral effort to respond to Poland's request for $1,000,000,000 to support its economic stabilization program.

(c) ADDITIONAL AUTHORITY TO PROVIDE STABILIZATION ASSISTANCE.—

(1) AUTHORITY.—In order to carry out paragraph (1) of section 101(b), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs), support for private sector development, or for other activities to further efforts to develop a free market-oriented economy in Poland.

(2) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing the assistance authorized by this subsection, there are authorized to be appropriated $200,000,000 for fiscal year 1990 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), in addition to amounts otherwise available for such purposes.

SEC. 103.[9] AGRICULTURAL ASSISTANCE.

(a) AGRICULTURAL ASSISTANCE STRATEGY.—

(1) UNITED STATES ASSISTANCE.—A principal component of the SEED Program shall be the provision by the United States of food and other agricultural commodities and products to alleviate crucial shortages that may be created in an East European country by the transition from state-directed controls to a free market economy.

(2) ASSISTANCE FROM OTHER COUNTRIES.—In order to ensure the necessary quantity and diversity of agricultural assistance for that purpose, the United States shall take all appropriate

[8] 22 U.S.C. 5412.
[9] 22 U.S.C. 5413.

steps to encourage parallel efforts by the European Community and other agricultural surplus countries.

(3) AVOIDING DISINCENTIVES TO PRIVATE AGRICULTURAL PRODUCTION AND MARKETING.—In participating in such multilateral agricultural assistance, the United States shall seek to strike a balance wherein agricultural commodities and products are supplied in such quantities as will be effective in overcoming severe shortages and dampening inflation but without impeding the development of incentives for private agricultural production and marketing in the recipient country.

(b) AGRICULTURAL ASSISTANCE FOR POLAND.—Pursuant to section 101(b)(3), the United States Government—

(1) shall make available to Poland, in coordination with the European Community, United States agricultural assistance—

(A) to alleviate immediate food shortages (such assistance to be specifically targeted toward elements of the Polish population most vulnerable to hunger and malnutrition, in particular the infirm, the elderly, and children), and

(B) to facilitate the transition from state-directed controls to a free market economy, while avoiding disincentives to domestic agricultural production and reform; and

(2) in order to ensure the necessary quantity and diversity of such agricultural assistance, shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus countries.

(c) FY 1990 MINIMUM LEVEL OF AGRICULTURAL ASSISTANCE FOR POLAND.—In carrying out subsection (b) of this section, the level of assistance for Poland for fiscal year 1990 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o) should not be less than $125,000,000. Such assistance—

(1) to the maximum extent practicable, shall be provided through nongovernmental organizations; and

(2) shall emphasize feed grains.

(d) CONSISTENCY WITH BUDGET REQUIREMENTS.—Subsection (c) should not be construed to authorize or require any budgetary obligations or outlays that are inconsistent with House Concurrent Resolution 106 of the 101st Congress (setting forth the congressional budget for the United States Government for fiscal year 1990).

SEC. 104.[10] DEBT-FOR-EQUITY SWAPS AND OTHER SPECIAL TECHNIQUES.

(a) REDUCTION OF DEBT BURDEN.—The President shall take all appropriate actions to explore and encourage innovative approaches to the reduction of the government-to-government and commercial debt burden of East European countries which have taken substantive steps toward political democracy and economic pluralism.

[10] 22 U.S.C. 5414. Sec. 4 of Executive Order 12703, February 20, 1990 (55 F.R. 6351), delegated the functions conferred upon the President in this section relating to debt reduction of certain East European countries to the Secretary of the Treasury.

(b) AUTHORITY FOR DISCOUNTED SALES OF DEBT.—Notwithstanding any other provision of law, the President may undertake the discounted sale, to private purchasers, of United States Government debt obligations of an East European country which has taken substantive steps toward political democracy and economic pluralism, subject to subsection (c).

(c) CONDITION.—An obligation may be sold under subsection (b) only if the sale will facilitate so-called debt-for-equity or debt-for-development swaps wherein such newly privatized debt is exchanged by the new holder of the obligation for—

(1) local currencies, policy commitments, or other assets needed for development or other economic activities, or

(2) for an equity interest in an enterprise theretofore owned by the particular East European government.

TITLE II—PRIVATE SECTOR DEVELOPMENT

SEC. 201.[11] ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and

(2) policies and practices conducive to private sector development in Poland and Hungary,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

(1) $240,000,000 to support the Polish-American Enterprise Fund; and

(2) $60,000,000 to support the Hungarian-American Enterprise Fund.

Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this Act, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise

[11] 22 U.S.C. 5421. Sec. 2 of Executive Order No. 12703, February 20, 1990 (55 F.R. 6351), delegated the functions conferred upon the President in this section relating to Enterprise Funds for Poland and Hungary to the Administrator of the United States Agency for International Development.

Fund (hereinafter in this section referred to as the "Enterprise Funds").

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens:[12] *Provided*, That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the "Advisory Councils"), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) ELIGIBLE PROGRAMS AND PROJECTS.—

(1) IN GENERAL.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) EMPLOYEE STOCK OWNERSHIP PLANS.—Funds available to the Enterprise Funds may be used to encourage the establish-

[12] Title II—Bilateral Economic Assistance, Assistance for the New Independent States of the Former Soviet Union, of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (as enacted by reference in sec. 301 of Public Law 104–99; 110 Stat. 26; enacted again as Public Law 104–107; 110 Stat. 714), added the proviso.

ment of Employee Stock Ownership Plans (ESOPs) in Poland and Hungary.

(3) INDIGENOUS CREDIT UNIONS.—Funds available to the Enterprise Funds may be used for technical and other assistance to support the development of indigenous credit unions in Poland and Hungary. As used in this paragraph, the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution.

(4) TELECOMMUNICATIONS MODERNIZATION IN POLAND.—The Polish-American Enterprise Fund may use up to $25,000,000 for grants for projects providing for the early introduction in Poland of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(5) ECONOMIC FOUNDATION OF NSZZ SOLIDARNOŚĆ.—Funds available to the Polish-American Enterprise Fund may be used to support the Economic Foundation of NSZZ Solidarnosc.

(g) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(h) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) USE OF UNITED STATES PRIVATE VENTURE CAPITAL.—In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) FINANCIAL INSTRUMENTS FOR INDIVIDUAL INVESTMENT IN POLAND.—In order to maximize the effectiveness of the activities of the Polish-American Enterprise Fund, that Enterprise Fund should

undertake all possible efforts to establish financial instruments that will enable individuals to invest in the private sectors of Poland and that will thereby have the effect of multiplying the impact of United States grants to that Enterprise Fund.

(k) NONAPPLICABILITY OF OTHER LAWS.—Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(l)[13] LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—

(1) No part of the funds of an Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services subject to paragraph (2).

(2) An Enterprise Fund shall not pay compensation for services to—

(A) any board member of the Enterprise Fund, except for services as a board member; or

(B) any firm, association, or entity in which a board member of the Enterprise Fund serves as partner, director, officer, or employee.

(3) Nothing in paragraph (2) shall preclude payment for services performed before the date of enactment of this subsection nor for arrangements approved by the grantor and notified in writing to the Committees on Appropriations.

(m) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(n) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(o) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the

[13] Sec. 588 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2438), amended and restated subsec. (l). It formerly read as follows:

"(l) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services.".

project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(p) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

SEC. 202.[14] LABOR MARKET TRANSITION IN POLAND AND HUNGARY.

(a) TECHNICAL ASSISTANCE.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary"), in consultation with representatives of labor and business in the United States, shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE AUTHORIZED.—In carrying out subsection (a), the Secretary is authorized to provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, the observance of internationally recognized worker rights (including freedom of association and the right to organize and bargain collectively), and other matters that the Secretary may deem appropriate regarding free labor markets and labor organizations.

(c) ADMINISTRATIVE AUTHORITIES.—In carrying out subsection (a), the Secretary is authorized to do the following:

(1) Solicit and accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this section, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following).

(2) Solicit and accept voluntary and uncompensated services notwithstanding section 1342 of title 31, United States Code.

[14] 22 U.S.C. 5422.

A volunteer under this paragraph shall not be deemed to be an employee of the United States except for the purposes of—

(A) the tort claims provisions of title 28, United States Code, and

(B) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

(3) Enter into arrangements or agreements with appropriate departments, agencies, and establishments of Poland and Hungary.

(4) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(d) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this section, the Secretary shall seek information and advice from, and consult with, appropriate officers of the United States.

(e) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) DELEGATION OF RESPONSIBILITIES.—The Secretary shall delegate the authority to carry out the programs authorized by this section to the head of the Bureau of International Labor Affairs of the Department of Labor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Labor for the 3-year period beginning October 1, 1989, to carry out this section—

(1) $4,000,000 for technical assistance to Poland; and

(2) $1,000,000 for technical assistance to Hungary.

SEC. 203.[15] TECHNICAL TRAINING FOR PRIVATE SECTOR DEVELOPMENT IN POLAND AND HUNGARY.

(a) TECHNICAL TRAINING PROGRAM.—The Agency for International Development shall develop and implement a program for extending basic agribusiness, commercial, entrepreneurial, financial, scientific, and technical skills to the people of Poland and Hungary to enable them to better meet their needs and develop a market economy. This program shall include management training and agricultural extension activities.

(b) PARTICIPATION BY ENTERPRISE FUNDS AND OTHER AGENCIES AND ORGANIZATIONS.—In carrying out subsection (a), the Agency for International Development may utilize the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and other appropriate Government and private agencies, programs, and organizations such as—

(1) the Department of Agriculture;

(2) the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(a) (1) and (2));

(3) the International Executive Service Corps;

(4) the Foundation for the Development of Polish Agriculture;

[15] 22 U.S.C. 5423.

(5) the World Council of Credit Unions; and

(6) other United States, Polish, and Hungarian private and voluntary organizations and private sector entities.

(c) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Assistance provided pursuant to subsection (a) under the authorities of part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of implementing this section, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), in addition to amounts otherwise available for such purposes.

(e) LIMITATION WITH RESPECT TO FARMER-TO-FARMER PROGRAM.—Any activities carried out pursuant to this Act through the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 shall be funded with funds authorized to be appropriated by this Act and local currencies made available under section 205, and shall not be funded with funds made available pursuant to section 1107 of the Food Security Act of 1985 (7 U.S.C. 1736 note) or a similar, subsequent provision of law.

SEC. 204.[16] PEACE CORPS PROGRAMS IN POLAND AND HUNGARY.

There are authorized to be appropriated to carry out programs in Poland and Hungary under the Peace Corps Act, $6,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes. Such programs shall include the use of Peace Corps volunteers—

(1) to provide English language training, and

(2) to extend the technical skills described in section 203(a) to the people of Poland and Hungary, using the Associate Volunteer Program to the extent practicable.

SEC. 205.[17] USE OF POLISH CURRENCY GENERATED BY AGRICULTURAL ASSISTANCE.

(a) ADDITIONAL ASSISTANCE FOR POLAND.—A portion of the agricultural commodities described in subsection (c) may be made available and sold or bartered in Poland to generate local currencies to be used—

(1) to complement the assistance for Poland authorized by sections 103(b), 201, and 203 of this Act, and

(2) to support the activities of the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note),

notwithstanding section 416(b)(7) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)) or any other provision of law.

(b) EMPHASIS ON AGRICULTURAL DEVELOPMENT.—The uses of local currencies generated under this section should emphasize the development of agricultural infrastructure, agriculture-related training, and other aspects of agricultural development in Poland.

(c) COMMODITIES SUBJECT TO REQUIREMENTS.—Subsection (a) applies with respect to agricultural commodities made available for

[16] 22 U.S.C. 5424.
[17] 22 U.S.C. 5425.

Poland for fiscal years 1990, 1991, and 1992 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o).

(d) OTHER USES NOT PRECLUDED.—The uses of agricultural commodities and local currencies specified in subsection (a) are in addition to other uses authorized by law.

SEC. 206.[18] UNITED STATES POLICY OF PRIVATE FINANCIAL SUPPORT FOR POLISH AND HUNGARIAN CREDIT UNIONS.

(a) IN GENERAL.—In order to facilitate the development of indigenous credit unions in Poland and Hungary, it is the policy of the United States that—

(1) United States citizens, financial institutions (other than federally insured depository institutions), and other persons may make contributions and loans to, make capital deposits in, and provide other forms of financial and technical assistance to credit unions in Poland and Hungary; and

(2) federally insured depository institutions may provide technical assistance to credit unions in Poland and Hungary, to the extent that the provision of such assistance is prudent and not inconsistent with safe and sound banking practice.

(b) AMENDMENT TO FEDERAL CREDIT UNION ACT.—Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

"(16) subject to such regulations as the Board may prescribe, to provide technical assistance to credit unions in Poland and Hungary; and".

(c) DEFINITIONS.—For purposes of subsection (a)—

(1) the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution; and

(2) the term "federally insured depository institution" means—

(A) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(B) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act).

[18] 22 U.S.C. 5426.

TITLE III—TRADE AND INVESTMENT

SEC. 301. ELIGIBILITY OF POLAND FOR GENERALIZED SYSTEM OF PREFERENCES.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b))[19] is amended by striking out "Poland" in the table within such subsection.

SEC. 302. OVERSEAS PRIVATE INVESTMENT CORPORATION PROGRAMS FOR POLAND AND HUNGARY.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".[20]

(b)[21] ENHANCEMENT OF NONGOVERNMENTAL SECTOR.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(c)[21] AVOIDANCE OF DUPLICATIVE AMENDMENTS.—If the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, contains the same amendment that is made by subsection (a) of this section, the amendment made by that Act shall not be effective.[22]

SEC. 303.[23] EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY.

(a) AUTHORITY TO EXTEND CREDIT TO POLAND AND HUNGARY.—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Republic of Hungary or any agency or national thereof or by the Polish People's Republic or any agency or national thereof.

(b) PRIVATE FINANCIAL INTERMEDIARIES TO FACILITATE EXPORTS TO POLAND.—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland.

SEC. 304.[24] TRADE CREDIT INSURANCE PROGRAM FOR POLAND. * * *

(b) CONFORMING AMENDMENT.—Section 224 of that Act is amended by inserting "FOR CENTRAL AMERICA" after "PROGRAM" in the section caption.

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[19] Sec. 502(b) of the Trade Act of 1974 (Public Law 93–618) lists those countries excluded from designation of "Beneficiary Developing Country" under the Generalized System of Preferences. Hungary was removed from this list by Public Law 98–573, effective January 4, 1985.

[20] Sec. 239 of the Foreign Assistance Act of 1961 states the general provisions and powers of the Overseas Private Investment Corporation. Subsec. (f) requires the President to determine that OPIC programs in certain countries are in the national interest.

[21] 22 U.S.C. 2199 note.

[22] Sec. 597 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1257), stated the same amendment.

[23] 12 U.S.C. 635 note.

[24] Sec. 304(a) amended the Foreign Assistance Act of 1961 by inserting a new section 225.

(c) CONFORMING REFERENCE.—With respect to Poland, any reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, to section 224 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to section 225 of that Act (as enacted by this section).

SEC. 305.[25] TRADE AND DEVELOPMENT AGENCY[26] ACTIVITIES FOR POLAND AND HUNGARY.

In order to permit expansion of the Trade and Development Agency[26] into Poland and Hungary, there are authorized to be appropriated $6,000,000 for the 3-year period beginning October 1, 1989, to carry out section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2241), in addition to amounts otherwise available for such purpose.

SEC. 306. BILATERAL INVESTMENT TREATIES WITH POLAND AND HUNGARY.

The Congress urges the President to seek bilateral investment treaties with Poland and Hungary in order to establish a more stable legal framework for United States investment in those countries.

SEC. 307. CERTAIN POLISH BONDS NOT SUBJECT TO INTERNAL REVENUE CODE RULES RELATING TO BELOW-MARKET LOANS.

(a) IN GENERAL.—Paragraph (5) of section 1812(b) of the Tax Reform Act of 1986 is amended—

(1) by inserting "or Poland" after "Israel" in the text thereof, and

(2) by inserting "OR POLISH" after "ISRAEL" in the heading thereof.[27]

(b)[28] EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

SEC. 401.[29] EDUCATIONAL AND CULTURAL EXCHANGES AND SISTER INSTITUTIONS PROGRAMS WITH POLAND AND HUNGARY.

(a) EDUCATIONAL AND CULTURAL EXCHANGES.—

(1) SUPPORT FOR EXPANDED U.S. PARTICIPATION.—The United States should expand its participation in educational and cultural exchange activities with Poland and Hungary, using the full array of existing government-funded and privately-funded programs, with particular emphasis on the J. William Fulbright Educational Exchange Program, the International Visitors Program, the Samantha Smith Memorial Exchange Program, the exchange programs of the National Academy of Sciences, youth and student exchanges through such private organizations as The Experiment in International Living, The

[25] 22 U.S.C. 2421 note.

[26] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

[27] Sec. 1812(b)(5) of the Tax Reform Act of 1986 (Public Law 99–514) may be found at 100 Stat. 2834; 26 U.S.C. 7872 note.

[28] 26 U.S.C. 7872 note.

[29] 22 U.S.C. 5441.

American Field Service Committee, and Youth for Understanding, and research exchanges sponsored by the International Research and Exchanges Board (IREX).

(2) EMPHASIS ON SKILLS IN BUSINESS AND ECONOMICS.—The United States should place particular emphasis on expanding its participation in educational exchange activities that will assist in developing the skills in business and economics that are necessary for the development of a free market economy in Poland and Hungary.

(b) BINATIONAL FULBRIGHT COMMISSIONS.—The United States should take all appropriate action to establish binational Fulbright commissions with Poland and Hungary in order to facilitate and enhance academic and scholarly exchanges with those countries.

(c) RECIPROCAL CULTURAL CENTERS.—The President should consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government-funded and privately-funded cultural exchanges.

(d) SISTER INSTITUTIONS PROGRAMS.—The President shall act to encourage the establishment of "sister institution" programs between American and Polish organizations and between American and Hungarian organizations, including such organizations as institutions of higher education, cities and towns, and organizations in such fields as medicine and health care, business management, environmental protection, and agricultural research and marketing.

(e) AUTHORIZATION OF APPROPRIATIONS.—To enable the United States Information Agency to support the activities described in this section, there are authorized to be appropriated $12,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes.

SEC. 402.[30] POLAND-HUNGARY SCHOLARSHIP PARTNERSHIP.

(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development is authorized to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from Poland and Hungary to study in the United States.

(b) EMPHASIS ON BUSINESS AND ECONOMICS.—The scholarship program provided for in this section shall emphasize scholarships to enable students from Poland and Hungary to study business and economics in the United States. Such scholarships may be provided for study in programs that range from the standard management courses to more specialized assistance in commercial banking and the creation of a stock market.

(c) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate or graduate degree programs, and training programs of one year or longer, in study areas related to the critical development needs of Poland and Hungary.

(d) CONSULTATION WITH STATES.—The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

[30] 22 U.S.C. 5442.

(e) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall not be more than 50 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to Poland or Hungary, as the case may be, for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING.—Grants to States pursuant to this section shall be made with funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). In addition to amounts otherwise available for such purpose under those chapters, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, for use in carrying out this section.

(j) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland and Hungary shall not apply with respect to the funds made available to carry out this section.

(k) DEFINITION OF STATE.—As used in this section, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 403.[31] SCIENCE AND TECHNOLOGY EXCHANGE WITH POLAND AND HUNGARY.

(a) AGREEMENT WITH POLAND.—There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990,
(2) $2,000,000 for fiscal year 1991, and
(3) $2,000,000 for fiscal year 1992.

(b) AGREEMENT WITH HUNGARY.—There are authorized to be appropriated to the Secretary of State for purposes of implementing the 1989 United States-Hungarian science and technology agreement—

[31] 22 U.S.C. 5443.

(1) $500,000 for fiscal year 1990,
(2) $1,000,000 for fiscal year 1991, and
(3) $1,000,000 for fiscal year 1992.

(c) DEFINITION OF AGREEMENTS BEING FUNDED.—For purposes of this section—

(1) the term "1987 United States-Polish science and technology agreement" refers to the agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto; and

(2) the term "1989 United States-Hungarian science and technology agreement" refers to the agreement concluded in 1989 by the United States and Hungary, entitled "Agreement Between the Government of the United States of America and the Government of the Hungarian People's Republic for Scientific and Technology Cooperation", together with annexes relating thereto.

TITLE V—OTHER ASSISTANCE PROGRAMS

SEC. 501.[32] ASSISTANCE IN SUPPORT OF DEMOCRATIC INSTITUTIONS IN POLAND AND HUNGARY.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $12,000,000 for the 3-year period beginning October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law.

SEC. 502.[33] ENVIRONMENTAL INITIATIVES FOR POLAND AND HUNGARY.

(a) PRIORITY FOR THE CONTROL OF POLLUTION.—The Congress recognizes the severe pollution problems affecting Poland and Hungary and the serious health problems which ensue from such pollution. The Congress therefore directs that a high priority be given in the implementation of assistance to Poland and Hungary to the control of pollution and the restoration of the natural resource base on which a sustainable, healthy economy depends.

(b) EPA ACTIVITIES GENERALLY.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter in this section referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as the Administrator may deem appropriate, either alone or in cooperation with other United States

[32] 22 U.S.C. 5451.
[33] 22 U.S.C. 5452.

or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(c) EPA ACTIVITIES IN POLAND.—The Administrator shall cooperate with Polish officials and experts to—

(1) establish an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improve both water quality and the availability of drinking water in the Krakow metropolitan area.

(d) EPA ACTIVITIES IN HUNGARY.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

(e) FUNDING OF EPA ACTIVITIES.—To enable the Environmental Protection Agency to carry out subsections (b), (c), and (d), there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of Part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). These funds may be used to carry out those subsections notwithstanding any provision of law relating to the use of foreign assistance funds.

(f) DEPARTMENT OF ENERGY ACTIVITIES RELATING TO FOSSIL FUELS.—

(1) CLEAN COAL.—The Secretary of Energy shall cooperate with Polish officials and experts to retrofit a coal-fired commercial powerplant in the Krakow, Poland, region with advanced clean coal technology that has been successfully demonstrated at a comparably scaled powerplant in the United States. Such retrofit shall be carried out by one or more United States companies using United States technology and equipment manufactured in the United States. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(2) EQUIPMENT ASSESSMENT.—The Secretary of Energy shall cooperate with Polish officials and experts and companies within the United States to assess and develop the capability within Poland to manufacture or modify boilers, furnaces, smelters, or other equipment that will enable industrial facilities within Poland to use fossil fuels cleanly. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out paragraphs (1) and (2) of this subsection, there are authorized to be appropriated $30,000,000 for the 3-year period beginning October 1, 1989. Not more than $10,000,000 of the funds appropriated under this paragraph may be used to carry out the requirements of paragraph (1).

(g) PRIORITY FOR EFFICIENT ENERGY USE.—In view of the high energy usage per unit of output in Hungary and Poland, the Secretary of Energy shall give high priority to assisting officials of Po-

land and Hungary in improving the efficiency of their energy use, through emphasis on such measures as efficient motors, lights, gears, and appliances and improvements in building insulation and design.

(h) ALTERNATIVE INVESTMENTS IN ENERGY IN HUNGARY.—It is the sense of the Congress that the Executive branch should work with the Government of Hungary to achieve environmentally safe alternative investments in energy efficiency, particularly with regard to projects along the Danube River.

SEC. 503.[34] MEDICAL SUPPLIES, HOSPITAL EQUIPMENT, AND MEDICAL TRAINING FOR POLAND.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $4,000,000 for the 3-year period beginning October 1, 1989, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment, and

(2) for training of Polish medical personnel.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law, other than—

(1) section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f); relating to the prohibition on the use of funds for abortions and involuntary sterilizations), and

(2) any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that relates to abortion.

TITLE VI—ADDITIONAL SEED PROGRAM ACTIONS

SEC. 601.[35] POLICY COORDINATION OF SEED PROGRAM.

The President shall designate, within the Department of State, a SEED Program coordinator who shall be directly responsible for overseeing and coordinating all programs described in this Act and all other activities that the United States Government conducts in furtherance of the purposes of this Act.

SEC. 602.[36] SEED INFORMATION CENTER SYSTEM.

(a) ESTABLISHMENT.—The President shall establish a SEED Information Center System, using existing Executive branch agencies and acting in cooperation with the Government of Poland and the Government of Hungary.

(b) FUNCTIONS.—

[34] 22 U.S.C. 5453.

[35] 22 U.S.C. 5461.

[36] 22 U.S.C. 5462. Sec. 3 of Executive Order 12703, February 20, 1990 (55 F.R. 6351), delegated the functions conferred upon the President in this section relating to the establishment of a SEED information Center System in cooperation with the Governments of Poland and Hungary to the Secretary of Commerce, in consultation with the SEED Program Coordinator and other agencies.

(1) IN GENERAL.—The SEED Information Center System shall serve as a central clearinghouse mechanism for information relating to—

(A) business needs and opportunities in Eastern Europe, and

(B) voluntary assistance to countries in Eastern Europe.

(2) PRIVATE ENTERPRISE DEVELOPMENT.—The SEED Information Center System shall be organized, among other purposes, to encourage—

(A) the submission of economically sound proposals to the Polish-American Enterprise Fund and Hungarian-American Enterprise Fund, and

(B) other sources of finance for the development of private enterprise in Eastern Europe.

(c) LOCATION.—The SEED Information Center System shall be based jointly in Washington, District of Columbia; Warsaw, Poland; and Budapest, Hungary; and should it become appropriate, the capitals of other East European countries.

SEC. 603.[37] ENCOURAGING VOLUNTARY ASSISTANCE FOR POLAND AND HUNGARY.

(a) ENCOURAGING PRIVATE CONTRIBUTIONS.—It is the sense of the Congress that the President should take all possible steps to encourage across the Nation a massive outpouring of private contributions of money and nonperishable foods, to be collected by civic, religious, school, and youth organizations, for assistance to Poland and to refugees from Romania who are in Hungary.

(b) TRANSPORTATION TO POLAND OF PRIVATE CONTRIBUTIONS.—In further of subsection (a), the President—

(1) using all available authorities, including section 402 of title 10, United States Code (relating to transportation of humanitarian relief supplies), should use resources of the Department of Defense (including the National Guard) to transport nonfinancial private contributions to Poland,

(2) should request additional authorities as needed for the use of those resources for that purpose; and

(3) should encourage maximum participation by such recognized private and voluntary organizations as the Polish-American Congress in the transportation of nonfinancial private contributions to Poland.

SEC. 604.[38] ECONOMIC AND COMMERCIAL OFFICERS AT UNITED STATES EMBASSIES AND MISSIONS IN POLAND AND HUNGARY.

It is the sense of the Congress that, to the extent practicable—

(1) the United States Embassy in Budapest, Hungary, should be assigned one additional economic and commercial officer;

(2) the United States Embassy in Warsaw, Poland, should be assigned one additional economic officer and one additional commercial officer;

(3) the United States Trade Center in Warsaw, Poland, should be assigned one additional economic and commercial officer; and

[37] 22 U.S.C. 5463.
[38] 22 U.S.C. 5464.

(4) the United States mission in Krakow, Poland, should be assigned one additional economic and commercial officer.

TITLE VII—REPORTS TO CONGRESS [39]

SEC. 701.[40] REPORT ON INITIAL STEPS TAKEN BY UNITED STATES AND ON POLAND'S REQUIREMENT FOR AGRICULTURAL ASSISTANCE.

(a) INITIAL REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress—

(1) describing the steps taken by the United States Government pursuant to title I, in particular sections 102 (a) and (b);

(2) assessing Poland's requirements for additional agricultural assistance during fiscal year 1990 and its requirements for agricultural assistance during fiscal years 1991 and 1992; and

(3) specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

(b) UPDATING ASSESSMENTS.—As additional information becomes available, the President shall provide to the Congress revised assessments of Poland's requirements for agricultural assistance during fiscal years 1991 and 1992, specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

SEC. 702.[41] REPORT ON CONFIDENCE BUILDING MEASURES BY POLAND AND HUNGARY.

Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Congress identifying—

(1) the confidence building measures Poland and Hungary could undertake to facilitate the negotiation of agreements, including bilateral customs and technology transfer agreements, that would encourage greater direct private sector investment in that country; and

(2) the confidence building measures Poland and Hungary could undertake with respect to the treatment accorded those countries under the Export Administration Act of 1979.

SEC. 703.[42] REPORT ON ENVIRONMENTAL PROBLEMS IN POLAND AND HUNGARY.

The first report submitted pursuant to section 704 shall include the following:

(1) ASSESSMENT OF PROBLEMS.—An overall assessment of the environmental problems facing Poland and Hungary, including—

(A) a relative ranking of the severity of the problems and their effects on both human health and the general environment;

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[39] Sec. 1 of Executive Order 12703, February 20, 1990 (55 F.R. 6351), delegated the functions conferred upon the President in this title relating to reports to the Congress to the Coordinator of the SEED Program.

[40] 22 U.S.C. 5471.

[41] 22 U.S.C. 5472.

[42] 22 U.S.C. 5473.

(B) a listing of the geographical areas of each country that have suffered the heaviest environmental damage, and a description of the source and scope of the damage; and

(C) an assessment of the environmental performance of leading industrial polluters in those countries and the expected effect on pollution levels of industrial modernization.

(2) PRIORITIES AND COSTS FOR ACTION.—An analysis of the priorities that Poland and Hungary should each assign in addressing its environmental problems, and an estimate of the capital and human resources required to undertake a comprehensive program of environmental protection in that country.

(3) ROLE OF UNITED STATES AND MULTILATERAL ASSISTANCE.—A statement of strategy for United States assistance for the next 5 years to address environmental problems in Poland and Hungary, including—

(A) recommendations for appropriate levels and forms of bilateral financial and technical assistance;

(B) recommendations concerning United States participation in cooperative multilateral undertakings;

(C) an assessment of the feasibility of debt-for-nature swaps as a technique of environmental protection in each country; and

(D) recommendations for minimizing further environmental damage to Krakow, and for the protection and restoration of historic sites in that city.

SEC. 704.[43] ANNUAL SEED PROGRAM REPORT.

(a) FINDINGS.—The Congress finds that—

(1) in order to provide the President with maximum flexibility and opportunity for innovation in implementation of the SEED Program, this Act sets forth general goals and modalities for the support of democracy and economic pluralism in Eastern Europe;

(2) prompt United States action in devising specific measures to achieve the goals outlined in this Act will be crucial in generating the public awareness, and the international commitment, necessary for United States leadership of a successful multilateral program of assistance in Eastern Europe; and

(3) clear-cut delineation of such United States actions at an early date is integral to United States leadership of this effort.

(b) INITIAL SEED PROGRAM REPORT.—Accordingly, the first report pursuant to subsection (c) shall be a comprehensive report that includes a full description of all SEED Actions taken pursuant to each provision of this Act since the enactment of this Act.

(c) ANNUAL SEED PROGRAM REPORT.—Not later than January 31 of each year (beginning in 1991), the President shall submit to the Congress a "Report on the United States Program of Support for East European Democracy (the SEED Program)". Each such report shall describe the assistance provided to each East European country under this Act during the preceding fiscal year. In addition,

[43] 22 U.S.C. 5474.

each such report shall contain an assessment of the progress made by each such recipient country in—

(1) implementing economic policies designed to promote sustained economic growth, develop economic freedom, and increase opportunities for the people of that country; and

(2) adopting and implementing constitutional, legal, and administrative measures that—

(A) affect the powers of the executive and legislative authorities and the independence of the judiciary,

(B) affect the formation and operation of independent political parties, groups, associations, or organizations, or

(C) affect fundamental human rights and civil liberties.

SEC. 705.[44] REPORTS ON CERTAIN ACTIVITIES.

At the same time each report is submitted pursuant to section 704(c), the President shall submit to the appropriate committees of the Congress a report on the extent of espionage activities against the United States and other member countries of the North Atlantic Treaty Organization by operatives of the government of any East European country that is receiving assistance under this Act. Such reports may be submitted in classified form.

SEC. 706.[45] NOTIFICATIONS TO CONGRESS REGARDING ASSISTANCE.

Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1; relating to reprogramming notifications) applies with respect to obligations of funds made available under that Act to carry out this Act, notwithstanding any other provision of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801.[46] SUSPENSION OF SEED ASSISTANCE.

The President should suspend all assistance to an East European country pursuant to this Act if the President determines, and reports to the Congress, that—

(1) that country is engaged in international activities directly and fundamentally contrary to United States national security interests;

(2) the president or any other government official of that country initiates martial law or a state of emergency for reasons other than to respond to a natural disaster or a foreign invasion; or

(3) any member who was elected to that country's parliament has been removed from that office or arrested through extraconstitutional processes.

SEC. 802.[47] DECLARATION OF THE REPUBLIC OF HUNGARY.

(a) FINDINGS.—The Congress finds that—

(1) on October 23, 1989, in a public ceremony in Budapest, the acting President of Hungary declared the Hungarian state to be an independent, democratic Republic of Hungary;

[44] 22 U.S.C. 5475.
[45] 22 U.S.C. 5476.
[46] 22 U.S.C. 5491.
[47] 22 U.S.C. 5492.

(2) this public ceremony was held on the 33d anniversary of Hungary's 1956 revolution that was bloodily suppressed by Soviet troops;

(3) this public ceremony was held in the same Kossuth Square where the first mass rally of the 1956 revolution was held;

(4) as a further symbol of Hungary's faithfulness to the legacy of the revolution of 1956, the declaration by the acting President was made from the same balcony from which Imre Nagy, the martyred Prime Minister of the revolutionary government of 1956, addressed the citizens of Budapest 33 years before;

(5) the heroic revolt and freedom fight of the Hungarian people in 1956 was an inspirational event, reminding a generation of Americans of the sacrifices people are willing to undertake as the price of liberty; and

(6) the present efforts of the Hungarian people to validate the legacy of the revolution of 1956 by establishing a free, independent, and prosperous Hungary have gained the sympathy and admiration of the American people.

(b) CONGRESSIONAL DECLARATIONS.—The Congress—

(1) congratulates the people of Hungary on the declaration of a Republic of Hungary committed to democratic principles; and

(2) expresses its desire to enhance the friendly relations between the people of Hungary and the people of the United States and between their respective governments.

SEC. 803.[48] ADMINISTRATIVE EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

For the purpose of paying administrative expenses incurred in connection with carrying out its functions under this Act, the Agency for International Development may use up to $500,000 each fiscal year of the funds made available to the Agency under this Act.

SEC. 804.[49] RELATION OF PROVISIONS OF THIS ACT TO CERTAIN PROVISIONS OF APPROPRIATIONS ACTS.

Any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that provides that assistance for Poland or Hungary under that Act may be provided "notwithstanding any other provision of law" shall not supersede any otherwise applicable provision of this Act. This section shall not, however, be construed to apply with respect to section 599C(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990[50] (or a corresponding provision of a subsequent such appropriations Acts.

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[48] 22 U.S.C. 5493.

[49] 22 U.S.C. 5494.

[50] Sec. 599C(b) of Public Law 101–167 provided that:

"Notwithstanding any other provision of this Act, any funds made available by this Act for a specific activity for Poland or Hungary instead may be obligated for Poland or Hungary for an activity with a similar purpose. The authority of section 515 of this Act may also be used to deobligate such funds and reobligate them for Poland or Hungary for an activity with a similar purpose: *Provided*, That the authority of this subsection shall be exercised subject to the regular notification procedures of the Committees on Appropriations.".

SEC. 805.[51] CERTAIN USES OF EXCESS FOREIGN CURRENCIES.

(a) AUTHORITY TO USE.—During fiscal year 1990, the Administrator of the Agency for International Development may use, for the purposes described in subsection (b), such sums of foreign currencies described in subsection (c) as the Administrator may determine, subject to subsection (f).

(b) PURPOSES FOR WHICH CURRENCY MAY BE USED.—Foreign currencies may be used under this section—

(1) for the same purposes for which assistance may be provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to economic assistance), and

(2) for the support of any institution providing education for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

(c) CURRENCIES WHICH MAY BE USED.—The foreign currencies which may be used under this section are United States-owned excess foreign currencies that are in excess of amounts necessary for satisfaction of preexisting commitments to use such currencies for other purposes specified by law.

(d) WHERE CURRENCIES MAY BE USED.—Foreign currencies may be used under this section in the country where such currencies are held or in other foreign countries.

(e) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Foreign currencies may be used under this section notwithstanding section 1306 of title 31, United States Code, or any other provision of law.

(f) REQUIREMENT FOR APPROPRIATIONS ACTION.—The authority of this section may be exercised only to such extent or in such amount as may be provided in advance in an appropriation Act.

[51] 22 U.S.C. 5495.

(8) American Aid to Poland Act of 1988

Partial text of Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107 at 1336, approved August 23, 1988; as amended by Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; and by Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1654, approved August 23, 1994

AN ACT To enhance the competitiveness of the American industry, and for other purposes.

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

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PART II—ASSISTANCE TO POLAND

SEC. 2221.[1] SHORT TITLE.

This part may be cited as the "American Aid to Poland Act of 1988".

SEC. 2222. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) FUNDING.—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) DEFINITION.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

SEC. 2223. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland[2] the Secretary of Agriculture shall donate,

[1] 7 U.S.C. 1431 note.

[2] Sec. 576(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1654) inserted "if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such

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under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1995 through 1999,[3] 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by governmental and[4] nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains, soybeans, and soybean products;[5] and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. USE OF POLISH CURRENCIES.

(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

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SEC. 2226. JOINT COMMISSION.

(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government,

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donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland" after "Notwithstanding any other provision of law".

[3] Sec. 576(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1654), struck out "1988 through 1992" and inserted in lieu thereof "1995 through 1999".

[4] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2032), inserted "governmental and" at this point, and made similar amendments at sec. 416(b)(7)(D)(ii) of the Agricultural Act of 1949.

[5] Sec. 576(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1654) inserted "soybeans, and soybean products" after "feed grains".

the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 2227. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

(9) Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland

Public Law 98–266 [H.R. 4835], 98 Stat. 153, approved April 17, 1984

AN ACT To authorize funding for the Clement J. Zablocki Memorial Outpatient Facility at the American Children's Hospital in Krakow, Poland.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) such amounts as may be necessary of the Polish currencies held by the United States shall be available for construction of a new facility at the American Children's Hospital in Krakow, Poland, which would be known as the Clement J. Zablocki Outpatient Facility. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, the United States Code, or any other provision to law.

(b) There are authorized to be appropriated to the President $10,000,000 of which—

(1) $3,000,000 shall be for equipping and furnishing the Clement J. Zablocki Outpatient Facility at the American Children's Hospital in Krakow, Poland;

(2) $3,000,000 shall be for improving medical equipment at the American Children's Hospital in Krakow, Poland; and

(3) $4,000,000 shall be for providing medical supplies to Poland through private and voluntary agencies, including the expenses of purchasing, transporting, and distributing such supplies.

Amounts appropriated pursuant to this subsection are authorized to remain available until expended.[1]

[1] Second Supplemental Appropriations Act, 1984, provided the following:

"CLEMENT J. ZABLOCKI MEMORIAL OUTPATIENT FACILITY IN POLAND

"For an additional amount for the 'Economic Support Fund', to carry out Public Law 98–266, $10,000,000, to remain available until expended.".

(10) Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983

Partial text of Public Law 98–164 [H.R. 2915], 97 Stat. 1017 at 1047, approved November 22, 1983; amended by Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

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TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION [1]

SHORT TITLE

SEC. 801. This title may be cited as the "Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983".[1]

FINDINGS AND DECLARATIONS

SEC. 802.[2] The Congress finds and declares that—

(1) factual knowledge, independently verified, about the countries of Eastern Europe and the independent states of the former Soviet Union [3] is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the countries of Eastern Europe and the independent states of the former Soviet Union [3] depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

[1] Sec. 302 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322 amended the title heading and the short title, both of which formerly referred to Soviet-Eastern European research and training.

[2] 22 U.S.C. 4501.

[3] Sec. 302(3) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet Union and Eastern European countries" in para. (1), (2), and (3)(E) of sec. 802, and inserted in lieu thereof "countries of Eastern Europe and the independent states of the former Soviet Union".

(A) graduate training;

(B) advanced research;

(C) public dissemination of research data, methods, and findings;

(D) contact and collaboration among Government and private specialists; and

(E) firsthand experience of the countries of Eastern Europe and the independent states of the former Soviet Union[3] by American specialists, including on site conduct of advanced training and research to the extent practicable; and

(4) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, State, local regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range unclassified basis.

DEFINITIONS

SEC. 803.[4] As used in this title—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965; and

(2) the term "Advisory Committee" means the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union[5] established by section 804(a).

ESTABLISHMENT OF THE[6] ADVISORY COMMITTEE

SEC. 804.[7] (a) There is established within the Department of State the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union[8] which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies, and the President of the Association of American Universities. The Secretary of State shall be the Chairman.[9]

(b) The Advisory Committee shall meet at the call of the Chairman and shall hold at least one meeting each year. Three members of the Advisory Committee shall constitute a quorum.

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[4] 22 U.S.C. 4502.

[5] Sec. 302(4) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet-Eastern European Studies Advisory Committee" and inserted in lieu thereof "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union".

[6] Sec. 302(5(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "SOVIET-EASTERN EUROPEAN STUDIES" from the section heading.

[7] 22 U.S.C. 4503.

[8] Sec. 302(5)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet-Eastern European Studies Advisory Committee" and inserted in lieu thereof "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union".

[9] The functions of the Chairman conferred upon the Secretary of State by this section were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

(c) The Secretary of State may detail personnel of the Department of State to provide technical and clerical assistance to the Advisory Committee in carrying out its functions under this title.

(d) The Advisory Committee shall recommend grant policies for the advancement of the objectives of this title. In proposing recipients for grants under this title, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union[10] and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

AUTHORITY TO MAKE PAYMENTS

SEC. 805.[11] (a) The Secretary of State, after consultation with the Advisory Committee, shall make payments, in accordance with the provisions of this section, out of funds made available to carry out this title.[12]

(b)(1) One part of the payments made in each fiscal year shall be used to conduct a national research program at the postdoctoral or equivalent level, such program to include—

(A) the dissemination of information about the research program and the solicitation of proposals for research contracts from American institutions of higher education and not-for-profit corporations, such contracts to contain shared-cost provisions; and

(B) the awarding of contracts for such research projects as the respective institution determines will best serve to carry out the purposes of this title after reviewing proposals submitted under subparagraph (A).

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union[13] and related studies, such program—

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

(I) the dissemination of information on the fellowship program and the solicitation of applications for

[10] Sec. 302(5)(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet and Eastern European countries" and inserted in lieu thereof "the countries of Eastern Europe and the independent states of the former Soviet Union".

[11] 22 U.S.C. 4504.

[12] The functions of making payments conferred upon the Secretary of State by this subsec. were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

[13] Sec. 302(6(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet and Eastern European studies " in para. (2)(A), (2)(B), and (6) in sec. 805(b), and inserted in lieu thereof "studies on the countries of Eastern Europe and the independent states of the former Soviet Union".

fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this title after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on studies on the countries of Eastern Europe and the independent states of the former Soviet Union [13] and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this title.

(3) One part of the payments made in each fiscal year shall be used—

(A) to provide fellowship and research support for American specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields [14] to conduct advanced research with particular emphasis upon the use of data on those state and countries; [15] and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields.[14]

(4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the independent states of the former Soviet Union [16] and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in those states and countries.[17]

(5) One part of the payments made in each fiscal year shall be used to support training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.[18] Such payments shall include grants to individuals to pursue such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian language studies and, as appropriate, studies of other languages of the independent states of the former Soviet Union.[19]

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[14] Sec. 302(6)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "fields of Soviet and Eastern European studies and related studies" in para. (3)(A) and (3)(B) of Sec. 805(b), and inserted in lieu thereof "independent states of the former Soviet Union and the countries of Eastern Europe and related fields".

[15] Sec. 302(6(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "the Soviet Union and Eastern European countries" and inserted in lieu thereof "those states and countries".

[16] Sec. 302(6)(D)(i) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Union of Soviet Socialist Republics" the first place it appeared in par. (4), and inserted in lieu thereof "independent states of the former Soviet Union".

[17] Sec. 302(6)(D)(ii) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "the Union of Soviet Socialist Republics and Eastern European countries", and inserted in lieu thereof "those states and countries".

[18] Sec. 302(6)(E)(i) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "language training in Russian and Eastern European languages." in the first sentence and inserted in lieu thereof "training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.".

[19] Sec. 302(6)(E)(ii) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) inserted "and, as appropriate, studies of other languages of the independent states of the former Soviet Union" in the last sentence.

(6) Payments may be made to carry out other research and training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union[13] not otherwise described in this section.

APPLICATIONS; PAYMENTS TO ELIGIBLE ORGANIZATIONS

SEC. 806.[20] (a) Any institution seeking funding under this title shall prepare and submit an application to the Secretary of State once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 805; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to ensure a proper accounting of Federal funds paid under this title, and (B) to ensure the verification of the costs of the continuing education and research programs conducted under this title.

(b) Payments under this title may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

REPORT

SEC. 807.[21] The Secretary of State shall prepare and submit to the President and the Congress at the end of each fiscal year in which an institution receives assistance under this title a report of the activities of such institution supported by such assistance, if the administrative expenses of such institution which are covered by such assistance represent more than 10 percent of such assistance, together with such recommendations as the Advisory Committee deems advisable.

FEDERAL CONTROL OF EDUCATION PROHIBITED

SEC. 808.[22] Nothing contained in this title may be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction or research, administration, or personnel of any educational institution.

ALLOCATION OF FUNDS

SEC. 809.[23] Of the funds authorized to be appropriated by section 102(1) of this Act—[24]

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[20] 22 U.S.C. 4505.
[21] 22 U.S.C. 4506.
[22] 22 U.S.C. 4507.
[23] 22 U.S.C. 4508.

Sec. 105 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, (Public Law 102–138; 105 Stat. 654) provided the following:

"(2) SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For 'Soviet-East European Research and Training', $4,784,000 for the fiscal year 1992 and $5,025,000 for the fiscal year 1993.".

Previous years' authorizations were: fiscal year 1986—$4,800,000; fiscal year 1987—$5,000,000; fiscal year 1988—$4,600,000; fiscal year 1989—$5,000,000; fiscal year 1990—$4,600,000; fiscal year 1991—$5,200,000.

[24] Sec. 102(1) authorized funds for "Administration of foreign affairs" within the Department of State for fiscal years 1984 and 1985. Authorizations for "Soviet-East European Research and Training" in following years appeared in State Department Authorization Acts for those years.

(1) up to $5,000,000 for the fiscal year 1984 shall be available to carry out this title; and

(2) $5,000,000 for the fiscal year 1985 shall be available only to carry out this title.

TERMINATION

SEC. 810.[25] * * * [Repealed—1991]

[25] 22 U.S.C. 4509. Sec. 810 was repealed by sec. 209 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 694). It had provided that "The provisions of this title shall cease to be effective at the end of the 10-year period beginning on the date of enactment of this title.".

(11) Central European Enterprise Development

Partial text of Small Business Act [Act of July 30, 1953, c. 282, 67 Stat. 232, amended]; further amended by Public Law 101–515 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991; H.R. 5021], 104 Stat. 2101, approved November 5, 1990; Public Law 103–81 [Small Business Guaranteed Credit Enhancement Act of 1993; S. 1274], 107 Stat. 780, approved August 13, 1993; and by Public Law 103–405 [Small Business Administration Reauthorization and Amendments Act of 1994; S. 2060], 108 Stat. 4175, approved October 22, 1994

* * * * * * *

SEC. 25.[1] (a) There is hereby established a Central European Small Business Enterprise Development Commission (hereinafter in this section referred to as the "Commission"). The Commission shall be comprised of a representative of each of the following: the Small Business Administration, the Association of American Universities, and the Association of Small Business Development Centers.

(b) The Commission shall develop in Czechoslovakia, Poland and Hungary (hereinafter referred to as "designated Central European countries") a self-sustaining system to provide management and technical assistance to small business owners.

(1) Not later than 90 days after the effective date of this section, the Commission, in consultation with the Agency for International Development, shall enter a contract with one or more entities to—

(A) determine the needs of small businesses in the designated Central European countries for management and technical assistance;

(B) evaluate appropriate Small Business Development Center-programs which might be replicated in order to meet the needs of each of such countries; and

(C) identify and assess the capability of educational institutions in each such country to develop a Small Business Development Center type program.

(2) Not later than 18 months after the effective date of this section, the Commission shall review the recommendations submitted to it and shall formulate and contract for the establishment of a three-year management and technical assistance demonstration program.

(c) In order to be eligible to participate, the educational institution in each designated Central European country shall—

(1) obtain the prior approval of the government to conduct the program;

[1] 15 U.S.C. 652.

(2) agree to provide partial financial support for the program, either directly or indirectly, during the second and third years of the demonstration program; and

(3) agree to obtain private sector involvement in the delivery of assistance under the program.

(d) The Commission shall meet and organize not later than 30 days after the date of enactment of this section.

(e) Members of the Commission shall serve without pay, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(f) Two Commissioners shall constitute a quorum for the transaction of business. Meetings shall be at the call of the Chairperson who shall be elected by the Members of the Commission.

(g) The Commission shall not have any authority to appoint staff, but upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist in carrying out the Commission's functions under this section without regard to section 3341 of title 5 of the United States Code. The Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support services as the Commission may request.

(h) The Commission shall report to Congress not later than December 1, 1991, and annually thereafter, on the progress in carrying out the provisions of this section.

(i) There are hereby authorized to be appropriated to the Small Business Administration the sum of $3,000,000 for fiscal year 1991, $5,000,000 for fiscal year 1992, $2,000,000 for each of fiscal years 1993 and 1994, and $1,000,000 for fiscal year 1995[2] to carry out the provisions of this section. Such sums shall be disbursed by the Small Business Administration as requested by the Commission and may remain available until expended. Any authority to enter contracts or other spending authority provided for in this section is subject to amounts provided for in advance in appropriations Acts.

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[2] Sec. 9(b) of the Small Business Guaranteed Credit Enhancement Act of 1993 (Public Law 103–81; 107 Stat. 783) struck "$8,000,000 for fiscal year 1993" and inserted in lieu thereof "$2,000,000 for each of fiscal years 1993 and 1994". Subsequently, sec. 405 of the Small Business Reauthorization and Amendments Act of 1994 (Public Law 103–403; 108 Stat. 4192) struck out "and $2,000,000 for each of fiscal years 1993 and 1994" and inserted in lieu thereof ", $2,000,000 for each of fiscal years 1993 and 1994, and $1,000,000 for fiscal year 1995".

(12) Support for East European Democracy (SEED) Program

Executive Order 12703, February 20, 1990, 55 F.R. 6351, 22 U.S.C. 5401 note

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Support for East European Democracy (SEED) Act (P.L. 101–179, hereinafter referred to as the "Act") and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *SEED Program Coordinator*. The functions conferred by Title VII of the Act relating to reports to the Congress are hereby delegated to the Coordinator of the SEED Program. The Coordinator is authorized to assign responsibility for particular aspects of the reports to appropriate agencies.

Sec. 2. *United States Agency for International Development*. The functions conferred upon the President by section 201 of the Act relating to Enterprise Funds for Poland and Hungary are hereby delegated to the Administrator of the United States Agency for International Development. The Administrator shall consult, as appropriate, with other relevant agencies in exercising the functions herein delegated.

Sec. 3. *Department of Commerce*. The functions conferred upon the President by section 602 of the Act regarding the establishment of a SEED Information Center System in cooperation with the Governments of Poland and Hungary are hereby delegated to the Secretary of Commerce. This authority is to be exercised in consultation with the SEED Program Coordinator and in consultation with other agencies as appropriate.

Sec. 4. *Department of the Treasury*. The functions conferred upon the President by section 104 of the Act regarding debt reduction of certain East European countries are hereby delegated to the Secretary of the Treasury. The Secretary shall consult, as appropriate, with other relevant agencies in exercising the functions herein delegated.

(13) Delegation of Functions Under the FREEDOM Support Act and Related Provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act

Executive Order 12884 of December 1, 1993; 58 F.R. 64099; 22 U.S.C. 5812 note; amended by Executive Order 13030 of December 12, 1996, 61 F.R. 66187

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the FREEDOM Support Act (Public Law 102–511) (the "Act"), the Foreign Assistance Act of 1961, as amended (the "Foreign Assistance Act"), the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993 (Public Law 102–391), and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Secretary of State.* (a) There are delegated to the Secretary of State the functions conferred upon the President by:

(1) section 907 of the Act;

(2) paragraphs (1), (2), (3), and (5)[1] of section 498A(b) of the Foreign Assistance Act;

(3) paragraph (1) of section 498A(C) of the Foreign Assistance Act and the requirement to make reports under that section regarding determinations under that paragraph; and

(4) section 599B of Public Law 102–391.

(b) The Secretary of State may at any time exercise any function delegated to the Coordinator under this order or otherwise assigned to the Coordinator.

Sec. 2. *Coordinator.* There are delegated to the Coordinator designated in accordance with section 102 of the Act the functions conferred upon the President by:

(a) section 104 of the Act, and the Coordinator is authorized to assign responsibility for particular aspects of the reports described in that section to the heads of appropriate agencies;

(b) section 301 of the Act, insofar as it relates to determinations and directives;

(c) section 498A(a), section 498B(c), and section 498B(g) of the Foreign Assistance Act; and

(d) paragraph (2) of section 498A(c) of the Foreign Assistance Act and the requirement to make reports under that section regarding determinations under that paragraph.

Sec. 3. *International Development Cooperation Agency.* There are delegated to the United States International Development Cooperation the functions conferred upon the President by:

(a) sections 301(a) and 307 of the Act, except insofar as provided otherwise in section 2(b) of this order;

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[1] Sec. 3 of Executive Order 13030, December 12, 1996 (61 F.R. 66187), added reference to para. (5).

(b) section 498 and section 498C(b)(2) of the Foreign Assistance Act;

(c) paragraph (3) of section 498A(c) of the Foreign Assistance Act and the requirement to make reports under that section regarding determinations under that paragraph;

(d) subsection (d) under the heading "Assistance for the New Independent States of the Former Soviet Union" contained in Title II of Public Law 102–391; and

(e) section 592 of Public Law 102–391, except to the extent otherwise provided in section 5(b) of this order.

Sec. 4. *Secretary of Agriculture.* There are delegated to the Secretary of Agriculture the functions conferred upon the President by section 807(d) of the Act.

Sec. 5. *Other Agencies.* The functions conferred upon the President by:

(a) sections 498B(h) and 498B(i) of the Foreign Assistance Act are delegated to the head of the agency that is responsible for administering the particular program or activity with respect to which the authority is to be exercised; and

(b) the third proviso in section 592 of Public Law 102–391 are delegated to the head of each agency that is responsible for administering relevant programs or activities.

Sec. 6. *General.* (a) The functions described in sections 3, 4, and 5 of this order shall be exercised subject to the authority of the Coordinator under section 102(a) of the Act or otherwise.

(b) As used in this order, the word "function" includes any duty, obligations, power, authority, responsibility, right, privilege, discretion, or activity.

(c) Functions delegated under this order shall be construed as excluded from the functions delegated under section 1–102(a) of Executive Order No. 12161, as amended.

(d) Any officer to whom functions are delegated or otherwise assigned under this order may, to the extent consistent with law, redelegate such functions and authorize their successive redelegation.

c. Assistance to Africa

(1) Prohibition on Assistance to Mauritania

Partial text of Public Law 104–319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864 at 3866, approved October 19, 1996

AN ACT Making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996".

* * * * * * *

TITLE II—FOREIGN ASSISTANCE PROVISIONS

SEC. 201.[2] HUMAN RIGHTS REPORTS. * * *

SEC. 202.[3] ASSISTANCE FOR MAURITANIA.

(a) PROHIBITION.—The President should not provide economic assistance, military assistance or arms transfers to the Government of Mauritania unless the President certifies to the Congress that such Government has taken appropriate action to eliminate chattel slavery in Mauritania, including—

(1) the enactment of anti-slavery laws that provide appropriate punishment for violators of such laws; and

(2) the rigorous enforcement of such laws.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) ECONOMIC ASSISTANCE.—The term "economic assistance" means any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), except that such term does not include humanitarian assistance.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to military assistance), including the transfer of excess defense articles under sections 516 through 519 of that Act (22 U.S.C. 2321j through 2321m);

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[1] 22 U.S.C. 2151 note. For foreign relations provisions of Public Law 104–319, see *Legislation on Foreign Relations Through 1997*, vol. II.

[2] Sec. 201 amended the Foreign Assistance Act of 1961 at sec. 116(d) (22 U.S.C. 2151n(d)) and at sec. 502B(b) (22 U.S.C. 2304(b)). See *Legislation on Foreign Relations Through 1997*, vol. I–A.

[3] 22 U.S.C. 2151 note.

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training);

(C) assistance under the ''Foreign Military Financing Program'' under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

* * * * * * *

(2) African Conflict Resolution Act

Public Law 103–381 [S. 2475], 108 Stat. 3513, approved October 19, 1995

AN ACT To authorize assistance to promote the peaceful resolution of conflicts in Africa.

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

SECTION. 1.[1] SHORT TITLE.

This Act may be cited as the "African Conflict Resolution Act".

SEC. 2.[1] FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

(A) would reduce the enormous human suffering which is caused by wars in Africa;

(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993.

(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make a

[1] 22 U.S.C. 2151 note.

significant contribution to global economic growth, while creating new opportunities for United States businesses.

(7) Excessive military expenditures threaten political and economic stability in Africa while diverting scarce resources from development needs. Demobilization and other measures to reduce the size of African armies, and civilian control of the military under the rule of law are in the interest of international security and economic development.

(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

(10) The effectiveness of U.S. support for conflict resolution programs requires coordination and collaboration with multilateral institutions and other bilateral donors.

(11) African institutions are playing an active role in conflict resolution and mediation utilizing the experience of elder statesmen. Groups such as the All African Council of Churches have assisted in defusing conflicts. The Economic Community of West African States (ECOWAS) has sought to address the conflict in Liberia by deploying an African peacekeeping force. The Southern African states have been working to prevent a crisis in Lesotho. The Intergovernmental Authority on Desertification and Drought (IGADD) has been engaged in attempting to resolve the conflict in Sudan.

(12) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries.

(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

SEC. 3.[1] IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability, including providing technical assistance.

(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, not less than $1,500,000 for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

SEC. 4.[1] IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

(1) Funds may be provided to such organizations for use in supporting their conflict resolution capability, including providing technical assistance.

(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such organizations.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

SEC. 5.[1] IMPROVING CONFLICT RESOLUTION CAPABILITIES OF NONGOVERNMENTAL ORGANIZATIONS.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

SEC. 6.[1] AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM.

(a) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to—

(1) provide assistance for the encampment and related activities for the purpose of demobilization of such forces; and

(2) provide assistance for the reintegration of demobilized military personnel into civilian society through activities such as retraining for civilian occupations, creation of income-generating opportunities, their reintegration into agricultural activities, and the transportation to the home areas of such personnel.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

(c) CIVILIAN INVOLVEMENT.—The President is also authorized to promote civilian involvement in the planning and organization of demobilization and reintegration activities.

SEC. 7.[1] TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING.

(a) AUTHORIZATION.—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

(b) FUNDING.—Of the funds made available under chapter 5 of part II of the Foreign Assistance Act of 1961, such sums as may

be necessary for each of the fiscal years 1995 and 1996 should be used for the purposes of subsection (a).

SEC. 8.[1, 2] PLAN FOR UNITED STATES SUPPORT FOR CONFLICT RESOLUTION AND DEMOBILIZATION IN SUB-SAHARAN AFRICA.

(a) IN GENERAL.—Pursuant to the provisions of sections 3 through 7, the President should develop an integrated long-term plan, which incorporates local perspectives, to provide support for the enhancement of conflict resolution capabilities and demobilization activities in sub-Saharan Africa.

(b) CONTENTS OF PLAN.—Such plan should include:

(1) The type, purpose, amount, and duration of assistance that is planned to be provided to conflict resolution units in sub-Saharan Africa.

(2) The type and amount of assistance that is planned to be provided for the demobilization of military personnel of countries of sub-Saharan Africa, including—

(A) a list of which countries will receive such assistance and an explanation of why such countries were chosen for such assistance; and

(B) a list of other countries and international organizations that are providing assistance for such demobilization.

(3) The type and amount of assistance that is planned to be provided to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(4) A description of proposed training programs for Africans in conflict resolution and peacekeeping under section 7, including a list of prospective participants and plans to expand such programs.

(5) The mechanisms to be used to coordinate interagency efforts to administer the plan.

(6) Efforts to seek the participation of other countries and international organizations to achieve the objectives of the plan.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing a description of the plan developed under this section.

SEC. 9.[1, 2] REPORTING REQUIREMENT.

(a) REQUIREMENT.—The President shall submit to the appropriate congressional committees a report describing the efforts and progress made in carrying out the provisions of this Act.

(b) DATE OF SUBMISSION.—The first report submitted under subsection (a) shall be submitted no later than 180 days after the date of the enactment of this Act, and shall be submitted annually thereafter.

SEC. 10.[1] CONSULTATION REQUIREMENT.

The President shall consult with the appropriate congressional committees prior to providing assistance under sections 3 through 7.

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[2] Authorities vested in the President in secs. 8 and 9 were delegated to the Administrator of the Agency for International Development, in a Presidential memorandum of June 6, 1995 (60 F.R. 30771).

SEC. 11.[1] APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

For purposes of this Act, the term "appropriate congressional committees" means the Committee on Foreign Affairs[3] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

[3] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(3) South African Democratic Transition Support Act of 1993

Public Law 103–149 [H.R. 3225], 107 Stat. 1503, approved November 23, 1993

AN ACT To support the transition to nonracial democracy in South Africa.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "South African Democratic Transition Support Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) After decades of apartheid, South Africa has entered a new era which presents a historic opportunity for a transition to a peaceful, stable, and democratic future.

(2) The United States policy of economic sanctions toward the apartheid government of South Africa, as expressed in the Comprehensive Anti-Apartheid Act of 1986, helped bring about reforms in that system of government and has facilitated the establishment of a nonracial government.

(3) Through broad and open negotiations, the parties in South Africa have reached a landmark agreement on the future of their country. This agreement includes the establishment of a Transitional Executive Council and the setting of a date for nonracial elections.

(4) The international community has a vital interest in supporting the transition from apartheid toward nonracial democracy.

(5) The success of the transition in South Africa is crucial to the stability and economic development of the southern African region.

(6) Nelson Mandela of the African National Congress and other representative leaders in South Africa have declared that the time has come when the international community should lift all economic sanctions against South Africa.

(7) In light of recent developments, the continuation of these economic sanctions is detrimental to persons disadvantaged by apartheid.

(8) Those calling for the lifting of economic sanctions against South Africa have made clear that they do not seek the immediate termination of the United Nations-sponsored special sanctions relating to arms transfers, nuclear cooperation, and exports of oil. The Ad Hoc Committee on Southern Africa of the Organization of African Unity, for example, has urged that the oil embargo established pursuant to a 1986 General Assembly resolution be lifted after the establishment and commencement of the work of the Transitional Executive Council.

SEC. 3. UNITED STATES POLICY.

It is the sense of the Congress that—

(1) the United States should—

(A) strongly support the Transitional Executive Council in South Africa,

(B) encourage rapid progress toward the establishment of a nonracial democratic government in South Africa, and

(C) support a consolidation of democracy in South Africa through democratic elections for an interim government and a new nonracial constitution;

(2) the United States should continue to provide assistance to support the transition to a nonracial democracy in South Africa, and should urge international financial institutions and other donors to also provide such assistance;

(3) to the maximum extent practicable, the United States should consult closely with international financial institutions, other donors, and South African entities on a coordinated strategy to support the transition to a nonracial democracy in South Africa;

(4) in order to provide ownership and managerial opportunities, professional advancement, training, and employment for disadvantaged South Africans and to respond to the historical inequities created under apartheid, the United States should—

(A) promote the expansion of private enterprise and free markets in South Africa,

(B) encourage the South African private sector to take a special responsibility and interest in providing such opportunities, advancement, training, and employment for disadvantaged South Africans,

(C) encourage United States private sector investment in and trade with South Africa,

(D) urge United States investors to develop a working partnership with representative organs of South African civil society, particularly churches and trade unions, in promoting responsible codes of corporate conduct and other measures to address the historical inequities created under apartheid;

(5) the United States should urge the Government of South Africa to liberalize its trade and investment policies to facilitate the expansion of the economy, and to shift resources to meet the needs of disadvantaged South Africans;

(6) the United States should promote cooperation between South Africa and other countries in the region to foster regional stability and economic growth; and

(7) the United States should demonstrate its support for an expedited transition to, and should adopt a long term policy beneficial to the establishment and perpetuation of, a nonracial democracy in South Africa.

SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND OTHER MEASURES DIRECTED AT SOUTH AFRICA.

(a) COMPREHENSIVE ANTI-APARTHEID ACT.—* * *

(b) OTHER PROVISIONS.—* * *

(c) SANCTIONS MEASURES ADOPTED BY STATE OR LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—

(1) POLICY REGARDING RESCISSION.—The Congress urges all State or local governments and all private entities in the United States that have adopted any restriction on economic interactions with South Africa, or any policy discouraging such interaction, to rescind such restriction or policy.

(2) REPEAL OF PROVISIONS RELATING TO WITHHOLDING FEDERAL FUNDS.—Effective October 1, 1995, the following provisions are repealed:

(A) The undesignated paragraph entitled "STATE AND LOCAL ANTI-APARTHEID POLICIES" in chapter IX of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (22 U.S.C. 5117).

(B) Section 210 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749).

(d) CONTINUATION OF UN SPECIAL SANCTIONS.—It is the sense of the Congress that the United States should continue to respect United Nations Security Council resolutions on South Africa, including the resolution providing for a mandatory embargo on arms sales to South Africa and the resolutions relating to the import of arms, restricting exports to the South African military and police, and urging states to refrain from nuclear cooperation that would contribute to the manufacture and development by South Africa of nuclear weapons or nuclear devices.

SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION TO A NONRACIAL DEMOCRACY.

(a) IN GENERAL.—The President is authorized and encouraged to provide assistance under chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) or chapter 4 of part II of that Act (relating to the Economic Support Fund) to support the transition to nonracial democracy in South Africa. Such assistance shall—

(1) focus on building the capacity of disadvantaged South Africans to take their rightful place in the political, social, and economic systems of their country;

(2) give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations;

(3) in the case of education programs—

(A) be used to increase the capacity of South African institutions to better serve the needs of individuals disadvantaged by apartheid;

(B) emphasize education within South Africa to the extent that assistance takes the form of scholarships for disadvantaged South African students; and

(C) fund nontraditional training activities;

(4) support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance;

(5) support activities and entities, such as the Peace Accord structures, which are working to end the violence in South Africa; and

(6) support activities to promote human rights, democratization, and a civil society.

(b) GOVERNMENT OF SOUTH AFRICA.—

(1) LIMITATION ON ASSISTANCE.—Except as provided in paragraph (2), assistance provided in accordance with this section may not be made available to the Government of South Africa, or organizations financed and substantially controlled by that government, unless the President certifies to the Congress that an interim government that was elected on a nonracial basis through free and fair elections has taken office in South Africa.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), assistance may be provided for—

(A) the Transitional Executive Council;

(B) South African higher education institutions, particularly those traditionally disadvantaged by apartheid policies; and

(C) any other organization, entity, or activity if the President determines that the assistance would promote the transition to nonracial democracy in South Africa.

Any determination under subparagraph (C) should be based on consultations with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and consultations with the appropriate congressional committees.

(c) INELIGIBLE ORGANIZATIONS.—

(1) ACTS OF VIOLENCE.—An organization that has engaged in armed struggle or other acts of violence shall not be eligible for assistance provided in accordance with this section unless that organization is committed to a suspension of violence in the context of progress toward nonracial democracy.

(2) VIEWS INCONSISTENT WITH DEMOCRACY AND FREE ENTERPRISE.—Assistance provided in accordance with this section may not be made available to any organization that has espoused views inconsistent with democracy and free enterprise unless such organization is engaged actively and positively in the process of transition to a nonracial democracy and such assistance would advance the United States objective of promoting democracy and free enterprise in South Africa.

SEC. 6. UNITED STATES INVESTMENT AND TRADE.

(a) TAX TREATY.—The President should begin immediately to negotiate a tax treaty with South Africa to facilitate United States investment in that country.

(b) OPIC.—The President should immediately initiate negotiations with the Government of South Africa for an agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to South Africa in order to expand United States investment in that country.

(c) TRADE AND DEVELOPMENT AGENCY.—In carrying out section 661 of the Foreign Assistance Act of 1961, the Director of the Trade and Development Agency should provide additional funds for activities related to projects in South Africa.

(d) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to South Africa.

(e) PROMOTING DISADVANTAGED ENTERPRISES.—

(1) INVESTMENT AND TRADE PROGRAMS.—Each of the agencies referred to in subsections (b) through (d) should take active steps to encourage the use of its programs to promote business enterprises in South Africa that are majority-owned by South Africans disadvantaged by apartheid.

(2) UNITED STATES GOVERNMENT PROCUREMENT.—To the extent not inconsistent with the obligations of the United States under any international agreement, the Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans, notwithstanding any law relating to the making or performance of, or the expenditure of funds for, United States Government contracts.

SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS.

The Director of the United States Information Agency should use the authorities of the United States Information and Educational Exchange Act of 1948 to promote the development of a nonracial democracy in South Africa.

SEC. 8. OTHER COOPERATIVE AGREEMENTS.

In addition to the actions specified in the preceding sections of this Act, the President should seek to conclude cooperative agreements with South Africa on a range of issues, including cultural and scientific issues.

SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND OTHER DONORS.

(a) IN GENERAL.—The President should encourage other donors, particularly Japan and the European Community countries, to expand their activities in support of the transition to nonracial democracy in South Africa.

(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution, including the International Bank for Reconstruction and Development and the International Development Association, to urge that institution to initiate or expand its lending and other financial assistance activities to South Africa in order to support the transition to nonracial democracy in South Africa.

(c) TECHNICAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution to urge that institution to fund programs to initiate or expand technical assistance to South Africa for the purpose of training the people of South Africa in government management techniques.

SEC. 10. CONSULTATION WITH SOUTH AFRICANS.

In carrying out this Act, the President should consult closely with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and others committed to abolishing the remnants of apartheid.

(4) Horn of Africa Recovery and Food Security Act

Public Law 102–274 [S. 985], 106 Stat. 115, approved April 21, 1992

AN ACT To assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Horn of Africa Recovery and Food Security Act".

SEC. 2.[1] FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (the region comprised of Ethiopia, Somalia, Sudan, and Djibouti) is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as gross violations of human rights, political repression, environmental destruction, and the breakdown of such essential services as primary education and health care.

(2) Internal conflict and famine have killed an estimated 2,000,000 people in Ethiopia, Sudan, and Somalia since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and the international community. Relief officials now estimate that another 15,000,000 to 20,000,000 people are threatened by starvation as civil war and drought continue to ravage the area.

(3) Governments and armed opposition groups in Ethiopia, Sudan, and Somalia have been guilty of gross violations of human rights, which further erode food security in those countries.

(4) Assistance policies have failed in large part because of political and economic insecurity, which have prevented the development of programs to achieve sustainable development and programs to achieve food security.

(5) Appropriate assistance should promote real food security, which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent chronic dependency upon food assistance.

(6) The end of the Cold War rivalries in the Horn of Africa affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the region.

[1] 22 U.S.C. 2151 note.

(7) Notwithstanding other pressing needs, the United States must accordingly fashion a new foreign policy toward the Horn of Africa and cooperate with other major donors and the United Nations—

(A) to develop an emergency relief plan which meets the immediate basic human needs that arise as long as civil strife and famine afflict the region;

(B) to promote immediately cease-fires, secure relief corridors, and an end to these conflicts; and

(C) to provide creative developmental assistance which attacks the root causes of famine and war and assists these nations on the path to long-term security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace, and which targets assistance to assist the poor majority more effectively.

SEC. 3.[1] STATEMENT OF POLICY REGARDING INDIVIDUAL COUNTRIES.

(a) ETHIOPIA.—It is the sense of the Congress that the President should—

(1) call upon the authorities who now exercise control over the central government in Ethiopia to protect the basic human rights of all citizens, to release from detention all political prisoners and other detainees who were apprehended by the Mengistu regime, and to facilitate the distribution of international relief and emergency humanitarian assistance throughout the country;

(2) urge all authorities in Ethiopia to make good faith efforts to—

(A) make permanent the cease-fire now in place and to permit the restoration of tranquility in the country, and

(B) make arrangements for a transitional government that is broadly-based, that accommodates all appropriate points of view, that respects human rights, and that is committed to a process of reform leading to the writing of a constitution and the establishment of representative government; and

(3) support efforts to ensure that the people of Eritrea are able to exercise their legitimate political rights, consistent with international law, including the right to participate actively in the determination of their political future, and call upon the authorities in Eritrea to keep open the ports of Mitsiwa and Aseb and to continue to permit the use of those ports for the delivery and distribution of humanitarian assistance to Eritrea and to Ethiopia as a whole.

(b)[2] SOMALIA.—It is the sense of the Congress that the President should—

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[2] Two concurrent resolutions were considered and agreed to in the 102d Congress to reenforce this sense of the Congress. S. Con. Res. 132, agreed to in the Senate on August 3, 1992, and in the House on August 10, 1992, resolved:

"That the Congress—

"(1) condemns in the strongest possible terms the senseless and wanton destruction wrought by the political factions in Somalia;

"(2) strongly urges these factions to abide by the United Nations ceasefire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

"(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

(1) use whatever diplomatic steps he considers appropriate to encourage a peaceful and democratic solution to the problems in Somalia;

(2) commit increased diplomatic resources and energies to resolving the fundamental political conflicts which underlie the protracted humanitarian emergencies in Somalia; and

(3) ensure, to the maximum extent possible and in conjunction with other donors, that emergency humanitarian assistance is being made available to those in need, and that none of the beneficiaries belong to military or paramilitary units.

(c) SUDAN.—It is the sense of the Congress that the President should—

(1) urge the Government of Sudan and the Sudanese People's Liberation Army to adopt at least a temporary cessation of hostilities in order to assure the delivery of emergency relief to civilians in affected areas;

(2) encourage active participation of the international community to meet the emergency relief needs of Sudan; and

(3) take steps to achieve a permanent peace.

SEC. 4.[1] HORN OF AFRICA RELIEF AND REHABILITATION PROGRAM.

(a) EQUITABLE DISTRIBUTION OF RELIEF AND REHABILITATION ASSISTANCE.—It should be the policy of the United States in promoting equitable distribution of relief and rehabilitation assistance in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction in a region, to continue supplies to the civilian population located in the territory controlled by any opposing faction;

"(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

"(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand its relief efforts in Somalia;

"(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security guards to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

"(7) urges the President to work with the United Nations Security Council to deploy these security guards immediately, with or without the consent of the Somalia factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.".

H. Con. Res. 370, agreed to in the House on October 2, 1992, and in the Senate on October 8, 1992, resolved:

"That the President should—

"(1) express to the United Nations Security Council the desire and the willingness of the United States to participate, consistent with applicable United States legal requirements, in the deployment of armed United Nations security guards, as authorized by the Security Council, in order to secure emergency relief activities and enable greater numbers of international and Somali organizations and people to provide relief and rehabilitation assistance;

"(2) express to the United Nations Security Council that the exigency of the crisis in Somalia warrants authorization by the Security Council of the deployment of United Nations security guards even in the event that an invitation by the various warring Somali factions cannot be obtained;

"(3) encourage discussion of alternative strategies for solving the political crisis in Somalia;

"(4) support the United Nations-sponsored relief coordination conference for Somalia scheduled for mid-October 1992; and

"(5) make every effort to ensure that adequate United States financial support exists for the United Nations to carry out its humanitarian and peacekeeping/peacemaking mission in Somalia.".

(2) to provide relief, rehabilitation, and recovery assistance to promote self-reliance; and

(3) to assure that relief is provided on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

(b) MAXIMIZING INTERNATIONAL RELIEF EFFORTS.—It should be the policy of the United States in seeking to maximize relief efforts for the Horn of Africa—

(1) to redouble its commendable efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population;

(2) to commit sufficient resources under title II of the Agricultural Trade Development and Assistance Act of 1954 (relating to emergency and private assistance programs), and under chapter 9 of part I of the Foreign Assistance Act of 1961 (relating to international disaster assistance), to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources;

(3) to consult with member countries of the European Community, Japan, and other major donors in order to increase overall relief and developmental assistance for the people in the Horn of Africa;

(4) to lend the full support of the United States to all aspects of relief operations in the Horn of Africa, and to work in support of United Nations and other international and voluntary agencies, in breaking the barriers currently threatening the lives of millions of refugees and others in need; and

(5) to urge the Secretary General of the United Nations to immediately appoint United Nations field coordinators for each country in the Horn of Africa who can act with the Secretary General's full authority.

(c) HORN OF AFRICA CIVIL STRIFE AND FAMINE ASSISTANCE.—

(1) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide international disaster assistance under chapter 9 of part I of the Foreign Assistance Act of 1961 for civil strife and famine relief and rehabilitation in the Horn of Africa.

(2) DESCRIPTION OF ASSISTANCE TO BE PROVIDED.—Assistance pursuant to this subsection shall be provided for humanitarian purposes and shall include—

(A) relief and rehabilitation projects to benefit the poorest people, including—

(i) the furnishing of seeds for planting, fertilizer, pesticides, farm implements, crop storage and preservation supplies, farm animals, and vaccine and veterinary services to protect livestock;

(ii) blankets, clothing, and shelter;

(iii) emergency health care; and

(iv) emergency water and power supplies;

(B) emergency food assistance (primarily wheat, maize, other grains, processed foods, and oils) for the affected and displaced civilian population of the Horn of Africa; and

(C) inland and ocean transportation of, and storage of, emergency food assistance, including the provision of trucks.

Assistance described in subparagraphs (B) and (C) shall be in addition to any such assistance provided under title II of the Agricultural Trade Development and Assistance Act of 1954.

(3) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—Assistance under this subsection should be provided, to the maximum extent possible, through United States, international, and indigenous private and voluntary organizations.

(4) MANAGEMENT SUPPORT ACTIVITIES.—Up to two percent of the amount made available for each fiscal year under paragraph (5) for use in carrying out this subsection may be used by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian and food assistance in the Horn of Africa provided under this subsection and subsection (d).

(5) TRANSFER OF SECURITY ASSISTANCE FUNDS.—The authority of section 610 of the Foreign Assistance Act of 1961 may be used to transfer for use in carrying out this subsection, without regard to the 20–percent increase limitation contained in that section, unobligated security assistance funds made available for fiscal year 1992 and 1993. As used in this paragraph, the term "security assistance funds" means funds available for economic support assistance, foreign military financing assistance, or international military education and training.

(d) EMERGENCY FOOD ASSISTANCE.—The President is urged to use the authorities of title II of the Agricultural Trade Development and Assistance Act of 1954 to provide supplemental emergency food assistance for the various civilian victims of civil strife in the Horn of Africa, in accordance with paragraphs (2)(B), (2)(C), and (3) of subsection (c), in addition to the assistance otherwise provided for such purposes.

SEC. 5.[1] HORN OF AFRICA PEACE INITIATIVE.

(a) SUPPORT FOR GRASSROOTS PARTICIPATION.—It shall be the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute to equitable economic development, and to local, national, and regional peace initiatives;

(2) to ensure that all citizens enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary, and representative governmental institutions, regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions that carry out activities in government-controlled or opposition-controlled territories and have the capacity or poten-

tial to promote conflict resolution, to advance development programs, or to carry out relief activities such as those described in section 4(c)(2).

(b) CONSULTATIONS.—The President is encouraged to undertake immediate consultations with appropriate countries, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations, in order to bring about negotiated settlements of the armed conflicts in the Horn of Africa.

(c) MECHANISMS.—It is the sense of the Congress that the President should—

(1) direct the United States Representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease-fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflicts; and

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease-fires;

(2) play an active and ongoing role in other fora in pressing for negotiated settlements to armed conflicts in the Horn of Africa; and

(3) support and participate in regional and international peace consultations that include broad representation from the countries and factions concerned.

SEC. 6.[1] HORN OF AFRICA FOOD SECURITY AND RECOVERY STRATEGY.

(a) TARGETING ASSISTANCE TO AID THE POOR MAJORITY; USE OF PVOS AND INTERNATIONAL ORGANIZATIONS.—

(1) TARGETING ASSISTANCE.—United States developmental assistance for the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists) to the maximum extent practicable. United States Government aid institutions should seek to—

(A) build upon the capabilities and experiences of United States, international, and indigenous private and voluntary organizations active in local grassroots relief, rehabilitation, and development efforts;

(B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and

(C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) PVOS AND INTERNATIONAL ORGANIZATIONS.—While support from indigenous governments is crucial, sustainable development and food security in the Horn of Africa should be enhanced through the active participation of indigenous private and voluntary organizations, as well as international private

and voluntary organizations, and international organizations that have demonstrated their ability to work as partners with local nongovernmental organizations and are committed to promoting local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) POLICY ON ASSISTANCE TO GOVERNMENTS.—United States assistance should not be provided to the Government of Ethiopia, the Government of Somalia, or the Government of Sudan until concrete steps toward peace, democracy, and human rights are taken in the respective country.

(4) SUPPORT FOR PVOS.—Meanwhile, the United States should provide developmental assistance to those countries by supporting United States, indigenous, and international private and voluntary organizations working in those countries. Such assistance should be expanded as quickly as possible.

(b) EXAMPLES OF PROGRAMS.—Assistance pursuant to this section should include programs to—

(1) reforest and restore degraded natural areas and reestablish resource management programs;

(2) reestablish veterinary services, local crop research, and agricultural development projects;

(3) provide basic education, including efforts to support the teaching of displaced children, and rebuild schools;

(4) educate young people outside of their countries if conflict within their countries continues;

(5) reconstitute and expand the delivery of primary and maternal health care; and

(6) establish credit, microenterprise, and income generation programs for the poor.

(c) VOLUNTARY RELOCATION AND REPATRIATION.—Assistance pursuant to this section should also be targeted to the voluntary relocation and voluntary repatriation of displaced persons and refugees after peace has been achieved. Assistance pursuant to this Act may not be made available for any costs associated with any program of involuntary or forced resettlement of persons.

(d) DEBT RELIEF; INTERNATIONAL FUND FOR RECONSTRUCTION.—Developmental assistance for the Horn of Africa should be carried out in coordination with long-term strategies for debt relief of countries in the region and with emerging efforts to establish an international fund for reconstruction of developing countries which settle civil wars within their territories.

(e) ASSISTANCE THROUGH PVOS AND INTERNATIONAL ORGANIZATIONS.—Unless a certification has been made with respect to that country under section 8, development assistance and assistance from the Development Fund for Africa for Ethiopia, Somalia, and Sudan shall be provided only through—

(1) United States, international, and indigenous private and voluntary organizations (as the term "private and voluntary organization" is defined in section 496(e)(2) of the Foreign Assistance Act of 1961); or

(2) through international organizations that have demonstrated effectiveness in working in partnership with local nongovernmental organizations and are committed to the promotion of local grassroots activities on behalf of development

and self-reliance in the Horn of Africa (such as the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program).

This subsection does not prohibit the organizations referred to in paragraphs (1) and (2) from working with appropriate ministries or departments of the respective governments of such countries.

(f) WAIVER OF RESTRICTIONS.—Assistance pursuant to this section may be made available to Ethiopia, Somalia, and Sudan notwithstanding any provision of law (other than the provisions of this Act) that would otherwise restrict assistance to such countries.

(g) UNITED STATES VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS FOR DEVELOPMENTAL ASSISTANCE FOR THE HORN OF AFRICA.—It should be the policy of the United States to provide increasing voluntary contributions to United Nations agencies (including the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program) for expanded programs of assistance for the Horn of Africa and for refugees from the Horn of Africa who are in neighboring countries.

(h) DEVELOPMENTAL ASSISTANCE AUTHORITIES.—Developmental assistance to carry out this section shall be provided pursuant to the authorities of chapter 1 of part I (relating to development assistance) and chapter 10 of part I (relating to the Development Fund for Africa) of the Foreign Assistance Act of 1961.

SEC. 7.[1] PROHIBITIONS ON SECURITY ASSISTANCE TO ETHIOPIA, SOMALIA, AND SUDAN.

(a) PROHIBITION.—Economic support assistance, foreign military financing assistance, and international military education and training may not be provided for fiscal year 1992 or 1993 for the Government of Ethiopia, the Government of Somalia, or the Government of Sudan unless the President makes the certification described in section 8 with respect to that government.

(b) ASSISTANCE FOR ETHIOPIA; CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—If the President makes the certification described in section 8 with respect to the Government of Ethiopia, the President may provide economic support assistance, foreign military financing assistance, and international military education and training for Ethiopia for fiscal years 1992 and 1993 notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any similar provision.

SEC. 8.[1] CERTIFICATION.

The certification required by sections 6(e) and 7 is a certification by the President[3] to the appropriate congressional committees that the government of the specified country—

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[3] In a memorandum for the Secretary of State on May 26, 1992, the President determined and certified that the Government of Ethiopia:

"(1) has begun to implement peace agreements and national reconciliation agreements;

"(2) has demonstrated a commitment to human rights within the meaning of sections 116 and 502B of the Foreign Assistance Act of 1961;

"(3) has manifested a commitment to democracy, has established a timetable for free and fair elections, and has agreed to implement the results of those elections; and

(1) has begun to implement peace agreements, national reconciliation agreements, or both;

(2) has demonstrated a commitment to human rights within the meaning of sections 116 and 502B of the Foreign Assistance Act of 1961;

(3) has manifested a commitment to democracy, has held or established a timetable for free and fair elections, and has agreed to implement the results of those elections; and

(4) in the case of a certification for purposes of section 6(e), has agreed to distribute developmental assistance on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

SEC. 9.[1, 4] REPORTING REQUIREMENT.

Not later than 180 days after the date of enactment of this Act and each 180 days thereafter, the President shall submit a report to the appropriate congressional committees on the efforts and progress made in carrying out this Act.

SEC. 10.[1] DEFINITIONS.

As used in this Act—

(1) the term "appropriate congressional committees" means the Committee on Foreign Affairs[5] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(2) the term "assistance from the Development Fund for Africa" means assistance under chapter 10 of part I of the Foreign Assistance Act of 1961;

(3) the term "development assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961;

(4) the term "economic support assistance" means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961;

(5) the term "foreign military financing assistance" means assistance under section 23 of the Arms Export Control Act; and

(6) the term "international military education and training" means assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) has agreed to distribute developmental assistance on the basis of need without regard to political affiliation, geographic locations, or the ethnic, tribal, or religious identity of the recipient." (Presidential Determination No. 92–27 of May 26, 1992; 57 F.R. 24925; June 11, 1992).

[4] In a July 19, 1993, memorandum for the Administrator of the Agency for International Development, the President delegated to the Administrator the functions authorized in sec. 9 (Memorandum of July 19, 1993; 58 F.R. 39109; July 21, 1993).

[5] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(5) Peace Process Support in Liberia

Public Law 102–270 [S.J. Res. 271], 106 Stat. 106, approved April 16, 1992; amended by Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12. 1996

JOINT RESOLUTION Expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process.

Whereas the civil war in Liberia, begun in December 1989, has devastated that country, killing an estimated 25,000 civilians and forcing hundreds of thousands of Liberians to flee their homes;

Whereas in an effort to end the fighting, the parties to the Liberian conflict and the leaders of the West African states signed a peace accord in Yamoussoukro, Cote d'Ivoire on October 30, 1991;

Whereas this agreement sets in motion a peace process, including the encampment and disarmament of the fighters and culminating in the holding of free and fair elections;

Whereas despite several difficulties, this peace process continues to proceed largely on track, including the recent opening of roads in Liberia and the initiation of the political campaigns by several parties; and

Whereas the election process outlined in the Yamoussoukro agreement is essential for reestablishing peace, democracy and reconciliation in Liberia, and limited United States assistance could play an important role in promoting this process: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)[1] the Congress—

(1) strongly supports the peace process for Liberia initiated by the Yamoussoukro peace accord;

(2) urges all parties to abide by the terms of the Yamoussoukro agreement;

(3) commends and congratulates the governments of the Economic Community of West African States (ECOWAS) for their leadership in seeking peace in Liberia; and

(4) extends particularly praise to President Babangida of Nigeria, President Houphouet-Boigny of Cote d'Ivoire, and President Diouf of Senegal for their efforts to resolve this conflict.

[1] 22 U.S.C. 2151 note.

(b) AUTHORIZATION OF LIMITED ASSISTANCE.—The[2] President is authorized to provide—

(1) nonpartisan election and democracy-building assistance to support democratic institutions in Liberia, and

(2) assistance for the resettlement of refugees, the demobilization and retraining of troops, and the provision of other appropriate assistance:[3] *Provided*, That the President determines and so certifies to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs[4] and the Committee on Appropriations of the House of Representatives that Liberia has made significant progress toward democratization and that the provision of such assistance will assist that country in making further progress and is otherwise in the national interest of the United States. A separate determination and certification shall be required for each fiscal year in which such assistance is to be provided.

[2] Sec. 573(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 749), struck out "Notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any similar provision, the" and inserted in lieu thereof "The".

Sec. 573(b) of that Act, furthermore, provided the following:

"(b) Funds appropriated by this Act may be made available for assistance for Liberia notwithstanding section 620(q) of the Foreign Assistance Act of 1961 and section 512 of this Act.".

[3] Sec. 573(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 749), struck out "to implement the Yamoussoukro peace accord" at this point.

[4] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(6) African Famine Relief and Recovery Act of 1985

Partial text of Public Law 99–8 [S. 689], 99 Stat. 21, approved April 2, 1985

AN ACT To authorize appropriations for famine relief and recovery in Africa.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "African Famine Relief and Recovery Act of 1985".[1]

SEC. 2.[2] * * *

SEC. 3.[1] MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the Department of State for "Migration and Refugee Assistance" for the fiscal year 1985, $37,500,000 for assisting refugees and displaced persons in Africa.

(b) USE OF FUNDS.—

(1) PROJECTS FOR IMMEDIATE DEVELOPMENT NEEDS.—Up to 54 percent of the funds authorized to be appropriated by this section may be made available to the United Nations Office of Emergency Operations in Africa for projects such as those proposed at the second International Conference on Assistance to Refugees in Africa (ICARA II) to address the immediate development needs created by refugees and displaced persons in Africa.

(2) EMERGENCY RELIEF AND RECOVERY EFFORTS.—The remaining funds authorized to be appropriated by this section shall be used by the Bureau for Refugee Programs of the Department of State for emergency relief and recovery efforts in Africa.

SEC. 4.[1] DEPARTMENT OF DEFENSE ASSISTANCE.

(a) SPECIAL RULE ON REIMBURSEMENT.—If the Department of Defense furnishes goods or services for African supplemental famine assistance activities, the Department of Defense shall be reimbursed for not more than the costs which it incurs in providing those goods or services. These costs do not include military pay and allowances, amortization and depreciation, and fixed facility costs.

(b) DEFINITION OF AFRICAN SUPPLEMENTAL FAMINE ASSISTANCE ACTIVITIES.—For purposes of this section, the term "African supplemental famine assistance activities" means the provision of the following fiscal year 1985 supplemental assistance for Africa:

(1) Famine assistance pursuant to section 2 of this Act.

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[1] 22 U.S.C. 2292 note.

[2] Sec. 2 amended the Foreign Assistance Act of 1961 by adding a new section 495K entitled "African Famine Assistance."

(2) Migration and refugee assistance pursuant to section 3 of this Act.

(3) Assistance pursuant to supplemental appropriations for title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721–1726).

(4) Assistance with funds appropriated during fiscal year 1985 for the Emergency Refugee and Migration Assistance Fund (22 U.S.C. 2601(c)).

SEC. 5.[1] GENERAL PROVISIONS RELATING TO ASSISTANCE.

(a) COUNTRIES TO BE ASSISTED.—Amounts authorized to be appropriated by this Act shall be available only for assistance in those countries in Africa which have suffered during calendar years 1984 and 1985 from exceptional food supply problems due to drought and other calamities.

(b) "HICKENLOOPER AMENDMENT".—Assistance may be provided with funds authorized to be appropriated by this Act without regard to section 620(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(e)(1)).

(c) ENSURING THAT ASSISTANCE REACHES INTENDED RECIPIENTS.—The President shall ensure that adequate procedures have been established so that assistance pursuant to this Act is provided to the famine victims for whom it is intended.

SEC. 6.[1] REPORTS ON AFRICAN FAMINE ASSISTANCE.

(a) REPORT ON UNITED STATES CONTRIBUTION TO MEET EMERGENCY NEEDS.—

(1) REQUIREMENT FOR REPORT.—Not later than June 30, 1985, the President shall report to the Congress with respect to the United States contribution to meet emergency needs, including food needs, for African famine assistance.

(2) INFORMATION TO BE INCLUDED IN REPORT.—The report required by this subsection shall describe—

(A) the emergency needs, including food needs, for African famine assistance that are identified by the President's Interagency Task Force on the African Food Emergency, private and voluntary organizations active in famine relief, the United Nations Office for Emergency Operations in Africa, the United Nations Food and Agriculture Organization, the World Food Program, and such other organizations as the President considers appropriate; and

(B) the projected fiscal year 1985 contribution by the United States Government to meet an appropriate share of those needs referred to in subparagraph (A).

(b) REPORT ON ASSISTANCE PROVIDED PURSUANT TO THIS ACT.—

(1) REQUIREMENT FOR REPORT.—Not later than September 30, 1985, the President shall report to the Congress on the assistance provided pursuant to this Act.

(2) INFORMATION TO BE INCLUDED IN REPORT.—

(A) USE OF FUNDS.—The report pursuant to this subsection shall describe the uses, by the Agency for International Development and by the Department of State, of the funds authorized to be appropriated by this Act, including—

(i) a description of each project or program supported with any of those funds, and the amount allocated to it;

(ii) the identity of each private and voluntary organization or international organization receiving any of those funds, and the amount of funds each received;

(iii) the amount of those funds used for assistance to each country;

(iv) the amount of those funds, if any, which will not have been obligated as of September 30, 1985; and

(v) a list of any projects or programs supported with those funds which are not expected to be completed as of December 31, 1985.

(7) Coordination of Economic Policies for Sub-Saharan Africa

Executive Order 12599, June 23, 1987, 52 F.R. 23779, 22 U.S.C. 2166 note

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Foreign Assistance Act of 1961, as amended, and in order to establish procedures for development of a common long-term goal for all United States economic programs and policies in Sub-Saharan Africa, it is hereby ordered as follows:

Section 1. *Establishment of the Coordinating Committee for Sub-Saharan Africa.* (a) There is hereby establish a Coordinating Committee for Sub-Saharan Africa ("the Committee").

(b) The Committee shall consist of the Administrator of the Agency for International Development, who shall be Chairman; the Assistant Secretary of the Treasury for International Affairs, who shall be Co-Chairman; representatives designated by the Secretaries of State, Defense, Agriculture, and Commerce; and representatives of the Office of Management and Budget, the Central Intelligence Agency, the United States Information Agency, the Peace Corps, the Overseas Private Investment Corporation, the United States Trade Representative, the African Development Foundation, the Assistant to the President for National Security Affairs, and the Assistant to the President for Policy Development.

(c) Whenever matters being considered by the Committee may be of interest to Federal agencies not represented on the Committee, the Chairman may invite the head of such agencies to designate representatives to participate in meetings and deliberations of the Committee.

(d) The Committee shall operate under the policy direction of the Secretaries of State and the Treasury.

(e) All Executive departments and agencies shall keep the Committee informed in necessary detail as to the polices, programs, and activities relating to the functions of the Committee described in section 2.

(f) Nothing herein shall be deemed to derogate from the responsibilities of the head of any agency in exercising the responsibilities vested in that person by law.

Sec. 2. *Functions of the Committee.* (a) The Committee shall operate in a manner best deemed appropriate by its Chairman in order to ensure the following:

(1) that all United States economic programs and policies for Sub-Saharan Africa are consistent with the goal of ending hunger in the region through economic growth, policy reform, and private sector development;

(2) United States economic programs and policies for each country of Sub-Saharan Africa are tailored to the specific needs of that

country, consistent with the goal presented in subsection (a)(1) of this section;

(3) United States economic programs and policies for Sub-Saharan Africa are fully coordinated within the United States Government prior to implementation with other donors and potential recipients; and,

(4) the overall level of aid the United States offers a country of Sub-Saharan Africa is related to continued performance of that country toward the goal presented in subsection (a)(1) of this section or willingness to undertake economic reform.

(b) The Committee shall support the Secretaries of State and the Treasury in preparing the annual report to the President required in section 3 of this Order.

(c) The Committee shall coordinate the preparation annually of a unified budget justification for transmittal to the Congress. This justification shall encompass all United States economic activities, strategies, and policies for Sub-Saharan Africa. Nothing in this subsection shall be deemed to affect the statutory authorities of the Director of the Office of Management and Budget.

(d) The Committee shall encourage and coordinate the alignment of United States food assistance programs in accordance with the goals presented in subsection 2(a) of this Order.

(e) The Committee shall encourage and coordinate efforts to mobilize expanded humanitarian and business involvement in Africa, both United States and international, through an outreach effort with appropriate Federal agencies.

(f) The Committee shall encourage and coordinate efforts of Federal agencies to expand United States business involvement in Sub-Saharan Africa by targeting trade and investment missions, prefeasibility and feasibility studies, sector and regional analyses, access to credit, and information on trade and investment opportunities in countries undertaking economic reform.

Sec. 3. *Annual Report to the President.* (a) The Secretary of State and the Secretary of the Treasury shall make a joint report to the President annually on Sub-Saharan Africa.

(b) The annual report shall discuss the economic condition of Sub-Saharan Africa and highlight progress being made in the region toward achieving the goal presented in section 2(a)(1). The annual report shall also affirm that all United States economic programs and policies conform with and support the goal of ending hunger in Sub-Saharan Africa through economic growth and private enterprise development.

d. Assistance to Latin America [1]

(1) Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996

Public Law 104–114 [H.R. 927], 110 Stat. 785, approved March 12, 1996

AN ACT to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

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

SECTION 1.[2] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996".

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

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[1] See also the Foreign Assistance Act of 1969 (Public Law 91–175), establishing the Inter-American Foundation, in *Legislation on Foreign Relations Through 1997*, vol. I–A.

[2] 22 U.S.C. 6021 note.

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SEC. 2.[3] FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of—

(A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;

(B) 36 years of communist tyranny and economic mismanagement by the Castro government;

(C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.

(3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms that would lead to democracy, a market economy, or an economic recovery.

(4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing violations of fundamental human rights, have isolated the Cuban regime as the only completely nondemocratic government in the Western Hemisphere.

(5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

[3] 22 U.S.C. 6021.

(6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(7) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the people of Cuba living under tyranny.

(8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in sanctioning the totalitarian Castro regime.

(9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

(10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people.

(11) The Cuban Democracy Act of 1992 calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(12) Amendments to the Foreign Assistance Act of 1961 made by the FREEDOM Support Act require that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to "terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance".

(13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from justice in the United States.

(14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.

(15) The Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power.

(16) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and continues to make clear that he has no intention of tolerating the democratization of Cuban society.

(17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country.

(18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40 men, women, and children who were seeking to leave Cuba on July 13, 1994).

(19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.

(20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.

(21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to "implement so much as one comma" of the United Nations Resolutions appointing the Rapporteur.

(22) The United Nations General Assembly passed Resolution 47–139 on December 18, 1992, Resolution 48–142 on December 20, 1993, and Resolution 49–200 on December 23, 1994, referencing the Special Rapporteur's reports to the United Nations and condemning violations of human rights and fundamental freedoms in Cuba.

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . ., to maintain or restore international peace and security.".

(24) The United Nations has determined that massive and systematic violations of human rights may constitute a "threat to peace" under Article 39 and has imposed sanctions due to such violations of human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of "all necessary means" to restore the "democratically elected government of Haiti", and the democratically elected government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 36 years, and the continued failure to do so constitutes ethically improper conduct by the international community.

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat to the United States.

SEC. 3.[4] PURPOSES.

The purposes of this Act are—

(1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

(2) to strengthen international sanctions against the Castro government;

(3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals by the Castro government, and the political manipulation by the Castro government of the desire of Cubans to escape that results in mass migration to the United States;

(4) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(5) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(6) to protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

SEC. 4.[5] DEFINITIONS.

As used in this Act, the following terms have the following meanings:

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(4) CONFISCATED.—As used in titles I and III, the term "confiscated" refers to—

[4] 22 U.S.C. 6022.
[5] 22 U.S.C. 6023.

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(5) CUBAN GOVERNMENT.—(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(6) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government determined by the President to have met the requirements of section 206.

(7) ECONOMIC EMBARGO OF CUBA.—The term "economic embargo of Cuba" refers to—

(A) the economic embargo (including all restrictions on trade or transactions with, and travel to or from, Cuba, and all restrictions on transactions in property in which Cuba or nationals of Cuba have an interest) that was imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following), or any other provision of law; and

(B) the restrictions imposed by section 902(c) of the Food Security Act of 1985.

(8) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States,

or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(9) KNOWINGLY.—The term "knowingly" means with knowledge or having reason to know.

(10) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban Government or the ruling political party in Cuba" refers to any member of the Council of Ministers, Council of State, central committee of the Communist Party of Cuba, or the Politburo of Cuba, or their equivalents.

(11) PERSON.—The term "person" means any person or entity, including any agency or instrumentality of a foreign state.

(12) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of title III of this Act, the term "property" does not include real property used for residential purposes unless, as of the date of the enactment of this Act—

(i) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by an official of the Cuban Government or the ruling political party in Cuba.

(13) TRAFFICS.—(A) As used in title III, and except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or (iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who

is not an official of the Cuban Government or the ruling political party in Cuba.

(14) TRANSITION GOVERNMENT IN CUBA.—The term "transition government in Cuba" means a government that the President determines is a transition government consistent with the requirements and factors set forth in section 205.

(15) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which has its principal place of business in the United States.

SEC. 5.[6] SEVERABILITY.

If any provision of this Act or the amendments made by this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, the amendments made by this Act, or the application thereof to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101.[7] STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council, a mandatory international embargo against the totalitarian Cuban Government pursuant to chapter VII of the Charter of the United Nations, employing efforts similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational any nuclear facilities in Cuba, and any continuation of intelligence activities by such a state from Cuba that are targeted at the United States and its citizens will have a detrimental impact on United States assistance to such state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression, most of whom find their way to United States shores, further depleting limited humanitarian and other resources of the United States, the President should do all in his power to make it clear to the Cuban Government that—

[6] 22 U.S.C. 6024.
[7] 22 U.S.C. 6031.

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the United States,

will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of the national borders of the United States and the health and safety of the American people.

SEC. 102.[8] ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—

(1) RESTRICTIONS BY OTHER COUNTRIES.—The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(2) SANCTIONS ON OTHER COUNTRIES.—The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of that Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials, are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d)[9] TRADING WITH THE ENEMY ACT.—

(1) CIVIL PENALTIES.—Subsection (b) of section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16(b)), as added by Public Law 102–484, is amended to read as follows:

"(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the direction of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

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[8] 22 U.S.C. 6032.

[9] For amended section of Trading with the Enemy Act, see *Legislation on Foreign Relations Through 1997*, vol. III.

(2) CONFORMING AMENDMENT; CRIMINAL FORFEITURE.—Section 16 of the Trading with the Enemy Act is further amended by striking subsection (b), as added by Public Law 102–393.

(3) CLERICAL AMENDMENTS.—Section 16 of the Trading with the Enemy Act is further amended—

(A) by inserting "SEC. 16." before "(a)"; and

(B) in subsection (a) by striking "participants" and inserting "participates".

(e) DENIAL OF VISAS TO CERTAIN CUBAN NATIONALS.—It is the sense of the Congress that the President should instruct the Secretary of State and the Attorney General to enforce fully existing regulations to deny visas to Cuban nationals considered by the Secretary of State to be officers or employees of the Cuban Government or of the Communist Party of Cuba.

(f)[10] COVERAGE OF DEBT-FOR-EQUITY SWAPS BY ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

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

"(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and"; and

(4) by adding at the end the following flush sentence:

"As used in this paragraph, the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to 'a foreign state' deemed to be a reference to 'Cuba'.".

(g) TELECOMMUNICATIONS SERVICES.—Section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)) is amended by adding at the end the following new paragraphs:

"(5) PROHIBITION ON INVESTMENT IN DOMESTIC TELECOMMUNICATIONS SERVICES.—Nothing in this subsection shall be construed to authorize the investment by any United States person in the domestic telecommunications network within Cuba. For purposes of this paragraph, an 'investment' in the domestic telecommunications network within Cuba includes the contribution (including by donation) of funds or anything of value to or for, and the making of loans to or for, such network.

"(6) REPORTS TO CONGRESS.—The President shall submit to the Congress on a semiannual basis a report detailing payments made to Cuba by any United States person as a result

[10] For the Cuban Democracy Act of 1992, see *Legislation on Foreign Relations Through 1997*, vol. III.

of the provision of telecommunications services authorized by this subsection.".

(h) CODIFICATION OF ECONOMIC EMBARGO.—The economic embargo of Cuba, as in effect on March 1, 1996, including all restrictions under part 515 of title 31, Code of Federal Regulations, shall be in effect upon the enactment of this Act, and shall remain in effect, subject to section 204 of this Act.

SEC. 103.[11] PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(a) PROHIBITION.—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act, except for financing by the United States national owning such claim for a transaction permitted under United States law.

(b) SUSPENSION AND TERMINATION OF PROHIBITION.—

(1) SUSPENSION.—The President is authorized to suspend the prohibition contained in subsection (a) upon a determination made under section 203(c)(1) that a transition government in Cuba is in power.

(2) TERMINATION.—The prohibition contained in subsection (a) shall cease to apply on the date on which the economic embargo of Cuba terminates as provided in section 204.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by such civil penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) DEFINITIONS.—As used in this section—

(1) the term "permanent resident alien" means an alien lawfully admitted for permanent residence into the United States; and

(2) the term "United States agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

SEC. 104.[12] UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) TRANSITION GOVERNMENT.—Once the President submits a determination under section 203(c)(1) that a transition government in Cuba is in power—

[11] 22 U.S.C. 6033.
[12] 22 U.S.C. 6034.

(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power, and

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans or assistance contribute to a stable foundation for a democratically elected government in Cuba.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to either of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 105.[13] UNITED STATES OPPOSITION TO TERMINATION OF THE SUSPENSION OF THE CUBAN GOVERNMENT FROM PARTICIPATION IN THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban Government from participation in the Organization until the President determines under section 203(c)(3) that a democratically elected government in Cuba is in power.

SEC. 106.[14] ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE CUBAN GOVERNMENT.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress toward the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(11)) is amended by striking "of military facilities" and inserting "military and intel-

[13] 22 U.S.C. 6035.

[14] 22 U.S.C. 6036. For the Foreign Assistance Act of 1961, as amended, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

ligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos".

(c) INELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking "or" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30–day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Cuban Government; or"

(2) DEFINITION—Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)) is amended by adding at the end the following new paragraph:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Cuban Government on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

"(B) imports from the Cuban Government at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Cuban Government is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of debt of the Cuban Government in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

"(4) CUBAN GOVERNMENT.—(A) The term 'Cuban Government' includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to 'a foreign state' deemed to be a reference to 'Cuba'.".

(3) EXCEPTION.—Section 498A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295A(c)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) The assistance is provided under the secondary school exchange program administered by the United States Information Agency.'.

(d) FACILITIES AT LOURDES, CUBA.—

(1) DISAPPROVAL OF CREDITS.—The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) REDUCTION IN ASSISTANCE.—Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—

"(1) REDUCTION IN ASSISTANCE.—Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of the enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2) WAIVER.—(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia under subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) The report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term 'appropriate congressional committees' includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) EXCEPTIONS TO REDUCTIONS IN ASSISTANCE.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform or rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector or nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).".

SEC. 107.[15] TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the United States Information Agency shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.

SEC. 108.[16] REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and by January 1 of each year thereafter until the President submits a determination under section 203(c)(1), the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12–month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is available:

(1) A description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance.

(2) A description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade.

(3) A description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved.

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[15] 22 U.S.C. 6037. For other legislation relating to broadcasting to Cuba, see *Legislation on Foreign Relations Through 1997*, vol. II.

[16] 22 U.S.C. 6038.

(4) A determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States national.

(5) A determination of the amount of debt of the Cuban Government that is owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals; and

(B) the amount of debt owed the foreign country that has been exchanged, forgiven, or reduced in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(6) A description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals do not enter the United States market, either directly or through third countries or parties.

(7) An identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or exchanged between Cuba and such countries,

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military supplies, equipment, or material, and

(C) the terms or conditions of any such agreement.

SEC. 109.[17] AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

(a) AUTHORIZATION.—Notwithstanding any other provision of law (including section 102 of this Act), except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies, to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression, and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) OAS EMERGENCY FUND.—

[17] 22 U.S.C. 6039.

(1) FOR SUPPORT OF HUMAN RIGHTS AND ELECTIONS.—The President shall take the necessary steps to encourage the Organization of American States to create a special emergency fund for the explicit purpose of deploying human rights observers, election support, and election observation in Cuba.

(2) ACTION OF OTHER MEMBER STATES.—The President should instruct the United States Permanent Representative to the Organization of American States to encourage other member states of the Organization to join in calling for the Cuban Government to allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) VOLUNTARY CONTRIBUTIONS FOR FUND.—Notwithstanding section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than $5,000,000 of the voluntary contributions of the United States to the Organization of American States solely for the purposes of the special fund referred to in paragraph (1).

(c) DENIAL OF FUNDS TO THE CUBAN GOVERNMENT.—In implementing this section, the President shall take all necessary steps to ensure that no funds or other assistance is provided to the Cuban Government.

SEC. 110.[18] IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS.

(a) PROHIBITION ON IMPORT OF AND DEALINGS IN CUBAN PRODUCTS.—The Congress notes that section 515.204 of title 31, Code of Federal Regulations, prohibits the entry of, and dealings outside the United States in, merchandise that—

(1) is of Cuban origin;

(2) is or has been located in or transported from or through Cuba; or

(3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(b) EFFECT OF NAFTA.—The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba. The statement of administrative action accompanying that trade agreement specifically states the following:

(1) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. . . . Nothing in the NAFTA would operate to override this prohibition.".

(2) "Article 309(3) [of the NAFTA] permits the United States to ensure that Cuban products or goods made from Cuban materials are not imported into the United States from Mexico or Canada and that United States products are not exported to Cuba through those countries.".

(c) RESTRICTION OF SUGAR IMPORTS.—The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99–198) requires the President not to allocate any of the sugar import quota

[18] 22 U.S.C. 6040.

to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for reexport to the United States any sugar produced in Cuba.

(d) ASSURANCE REGARDING SUGAR PRODUCTS.—Protection of essential security interests of the United States requires assurances that sugar products that are entered, or withdrawn from warehouse for consumption, into the customs territory of the United States are not products of Cuba.

SEC. 111.[19] WITHHOLDING OF FOREIGN ASSISTANCE FROM COUNTRIES SUPPORTING JURAGUA NUCLEAR PLANT IN CUBA.

(a) FINDINGS.—The Congress makes the following findings:

(1) President Clinton stated in April 1993 that the United States opposed the construction of the Juragua nuclear power plant because of the concerns of the United States about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.

(2) Cuba has not signed the Treaty on the Non-Proliferation of Nuclear Weapons or ratified the Treaty of Tlatelolco, the latter of which establishes Latin America and the Caribbean as a nuclear weapons-free zone.

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to the Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua, near Cienfuegos, Cuba, including—

(A) a lack in Cuba of a nuclear regulatory structure;

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

(D) reports by a former technician from Cuba who, by examining with x-rays weld sites believed to be part of the auxiliary plumbing system for the plant, found that 10 to 15 percent of those sites were defective;

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the elements, including corrosive salt water vapor, of the primary reactor components; and

(F) the possible inadequacy of the upper portion of the reactors' dome retention capability to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch and United States reactors are designed to accommodate pressures of 50 pounds per square inch.

(5) The United States Geological Survey claims that it had difficulty determining answers to specific questions regarding

[19] 22 U.S.C. 6041.

earthquake activity in the area near Cienfuegos because the Cuban Government was not forthcoming with information.

(6) The Geological Survey has indicated that the Caribbean plate, a geological formation near the south coast of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the coast of the Gulf of Mexico as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear missiles to the United States, which represented a direct and dangerous provocation of the United States and brought the world to the brink of a nuclear conflict.

(10) Fidel Castro over the years has consistently issued threats against the United States Government, most recently that he would unleash another perilous mass migration from Cuba upon the enactment of this Act.

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) WITHHOLDING OF FOREIGN ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after the date of the enactment of this Act, for any country an amount equal to the sum of assistance and credits, if any, provided on or after such date of enactment by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

(2) EXCEPTIONS.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) the creation of private sector or nongovernmental organizations that are independent of government control;

(D) the development of a free market economic system;

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160); or

(F) assistance under the secondary school exchange program administered by the United States Information Agency.

(3) DEFINITION.—As used in paragraph (1), the term "assistance" means assistance under the Foreign Assistance Act of 1961, credits, sales, guarantees of extensions of credit, and

other assistance under the Arms Export Control Act, assistance under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, assistance under the FREEDOM Support Act, and any other program of assistance or credits provided by the United States to other countries under other provisions of law.

SEC. 112.[20] REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA.

It is the sense of the Congress that the President should—

(1)(A) before considering the reinstitution of general licenses for family remittances to Cuba, insist that, prior to such reinstitution, the Cuban Government permit the unfettered operation of small businesses fully empowered with the right to hire others to whom they may pay wages and to buy materials necessary in the operation of the businesses, and with such other authority and freedom as are required to foster the operation of small businesses throughout Cuba; and

(B) if licenses described in subparagraph (A) are reinstituted, require a specific license for remittances described in subparagraph (A) in amounts of more than $500; and

(2) before considering the reinstitution of general licenses for travel to Cuba by individuals resident in the United States who are family members of Cuban nationals who are resident in Cuba, insist on such actions by the Cuban Government as abrogation of the sanction for departure from Cuba by refugees, release of political prisoners, recognition of the right of association, and other fundamental freedoms.

SEC. 113.[21] EXPULSION OF CRIMINALS FROM CUBA.

The President shall instruct all United States Government officials who engage in official contacts with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

SEC. 114.[22] NEWS BUREAUS IN CUBA.

(a) ESTABLISHMENT OF NEWS BUREAUS.—The President is authorized to establish and implement an exchange of news bureaus between the United States and Cuba, if the exchange meets the following conditions:

(1) The exchange is fully reciprocal.

(2) The Cuban Government agrees not to interfere with the establishment of news bureaus or with the movement in Cuba of journalists of any United States-based news organizations, including Radio Marti and Television Marti.

(3) The Cuban Government agrees not to interfere with decisions of United States-based news organizations with respect to individuals assigned to work as journalists in their news bureaus in Cuba.

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[20] 22 U.S.C. 6042.
[21] 22 U.S.C. 6043.
[22] 22 U.S.C. 6044.

(4) The Department of the Treasury is able to ensure that only accredited journalists regularly employed with a news gathering organization travel to Cuba under this subsection.

(5) The Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of publications of any United States-based news organization that has a news bureau in Cuba.

(b) ASSURANCE AGAINST ESPIONAGE.—In implementing this section, the President shall take all necessary steps to ensure the safety and security of the United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the Cuban Government.

(c) FULLY RECIPROCAL.—As used in subsection (a)(1), the term "fully reciprocal" means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance, or other support from a governmental or official source, are permitted to establish and operate a news bureau in the United States and Cuba.

SEC. 115.[23] EFFECT OF ACT ON LAWFUL UNITED STATES GOVERNMENT ACTIVITIES.

Nothing in this Act prohibits any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency, or of an intelligence agency, of the United States.

SEC. 116.[24] CONDEMNATION OF CUBAN ATTACK ON AMERICAN AIRCRAFT.

(a) FINDINGS.—The Congress makes the following findings:

(1) Brothers to the Rescue is a Miami-based humanitarian organization engaged in searching for and aiding Cuban refugees in the Straits of Florida, and was engaged in such a mission on Saturday, February 24, 1996.

(2) The members of Brothers to the Rescue were flying unarmed and defenseless planes in a mission identical to hundreds they have flown since 1991 and posed no threat whatsoever to the Cuban Government, the Cuban military, or the Cuban people.

(3) Statements by the Cuban Government that Brothers to the Rescue has engaged in covert operations, bombing campaigns, and commando operations against the Government of Cuba have no basis in fact.

(4) The Brothers to the Rescue aircraft notified air traffic controllers as to their flight plans, which would take them south of the 24th parallel and close to Cuban airspace.

(5) International law provides a nation with airspace over the 12–mile territorial sea.

(6) The response of Fidel Castro's dictatorship to Saturday's afternoon flight was to scramble 2 fighter jets from a Havana airfield.

(7) At approximately 3:24 p.m., the pilot of one of the Cuban MiGs received permission and proceeded to shoot down one

[23] 22 U.S.C. 6045.
[24] 22 U.S.C. 6046.

Brothers to the Rescue airplane more than 6 miles north of the Cuban exclusion zone, or 18 miles from the Cuban coast.

(8) Approximately 7 minutes later, the pilot of the Cuban fighter jet received permission and proceeded to shoot down the second Brothers to the Rescue airplane almost 18.5 miles north of the Cuban exclusion zone, or 30.5 miles from the Cuban coast.

(9) The Cuban dictatorship, if it truly felt threatened by the flight of these unarmed aircraft, could have and should have pursued other peaceful options as required by international law.

(10) The response chosen by Fidel Castro, the use of lethal force, was completely inappropriate to the situation presented to the Cuban Government, making such actions a blatant and barbaric violation of international law and tantamount to cold-blooded murder.

(11) There were no survivors of the attack on these aircraft, and the crew of a third aircraft managed to escape this criminal attack by Castro's Air Force.

(12) The crew members of the destroyed planes, Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, were United States citizens from Miami flying with Brothers to the Rescue on a voluntary basis.

(13) It is incumbent upon the United States Government to protect the lives and livelihoods of United States citizens as well as the rights of free passage and humanitarian missions.

(14) This premeditated act took place after a week-long wave of repression by the Cuban Government against Concilio Cubano, an umbrella organization of human rights activists, dissidents, independent economists, and independent journalists, among others.

(15) The wave of repression against Concilio Cubano, whose membership is committed to peaceful democratic change in Cuba, included arrests, strip searches, house arrests, and in some cases sentences to more than 1 year in jail.

(b) STATEMENTS BY THE CONGRESS.—(1) The Congress strongly condemns the act of terrorism by the Castro regime in shooting down the Brothers to the Rescue aircraft on February 24, 1996.

(2) The Congress extends its condolences to the families of Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, the victims of the attack.

(3) The Congress urges the President to seek, in the International Court of Justice, indictment for this act of terrorism by Fidel Castro.

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

SEC. 201.[25] POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

The policy of the United States is as follows:

(1) To support the self-determination of the Cuban people.

[25] 22 U.S.C. 6061.

(2) To recognize that the self-determination of the Cuban people is a sovereign and national right of the citizens of Cuba which must be exercised free of interference by the government of any other country.

(3) To encourage the Cuban people to empower themselves with a government which reflects the self-determination of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance—

(A) to a transition government in Cuba;

(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a democratically elected government in Cuba, through United States Government organizations, or through United States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government.

(11) To assist a transition government in Cuba and a democratically elected government in Cuba to prepare the Cuban military forces for an appropriate role in a democracy.

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to return the United States Naval Base at Guantanamo to Cuba or to renegotiate the present agreement under mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

(16) To pursue trade relations with a free, democratic, and independent Cuba.

SEC. 202.[26] ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 203(c)) is in power.

(2) EFFECT ON OTHER LAWS.—Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) PLAN FOR ASSISTANCE.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) TYPES OF ASSISTANCE.—Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) TRANSITION GOVERNMENT.—(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance in addition to assistance under clause (i) may be provided, but only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of economic as-

[26] 22 U.S.C. 6062.

sistance in addition to assistance available under subparagraph (A), together with assistance described in subparagraph (C). Such economic assistance may include—

(i) assistance under chapter 1 of part I (relating to development assistance), and chapter 4 of part II (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Agricultural Trade Development and Assistance Act of 1954;

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;

(iv) financial support provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(v) assistance provided by the Trade and Development Agency;

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 201.

(C) MILITARY ADJUSTMENT ASSISTANCE.—Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) STRATEGY FOR DISTRIBUTION.—The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) DISTRIBUTION.—Assistance under the plan developed under subsection (b) shall be provided through United States Government organizations and nongovernmental organizations and private and voluntary organizations, whether within or outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) INTERNATIONAL EFFORTS.—The President shall take the necessary steps—

(1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in Cuba, assistance comparable to that provided by the United States under this Act; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) COMMUNICATION WITH THE CUBAN PEOPLE.—The President shall take the necessary steps to communicate to the Cuban people the plan for assistance developed under this section.

(g) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

(h) REPORT ON TRADE AND INVESTMENT RELATIONS.—

(1) REPORT TO CONGRESS.—The President, following the transmittal to the Congress of a determination under section

203(c)(3) that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)); and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATION.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

SEC. 203.[27] COORDINATION OF ASSISTANCE PROGRAM; IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING.

(a) COORDINATING OFFICIAL.—The President shall designate a coordinating official who shall be responsible for—

(1) implementing the strategy for distributing assistance described in section 202(b);

(2) ensuring the speedy and efficient distribution of such assistance; and

(3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide assistance

[27] 22 U.S.C. 6063.

described in section 202(b), including resolving any disputes among such agencies.

(b) UNITED STATES—CUBA COUNCIL.—Upon making a determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President, after consultation with the coordinating official, is authorized to designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to change in Cuba, and in promoting market-based development in Cuba; and

(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for the purpose of facilitating bilateral trade.

(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—

(1) Implementation with respect to transition government.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such transition government under the plan developed under section 202(b).

(2) REPORTS TO CONGRESS.—(A) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 202(b)(2) (A) and (C) to the transition government in Cuba under the plan of assistance developed under section 202(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(B) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 202(b).

(4) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

(d) REPROGRAMMING.—Any changes in the assistance to be provided under the plan developed under section 202(b) may not be

made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 204.[28] TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(1) that a transition government in Cuba is in power, the President, after consultation with the Congress, is authorized to take steps to suspend the economic embargo of Cuba and to suspend the right of action created in section 302 with respect to actions thereafter filed against the Cuban Government, to the extent that such steps contribute to a stable foundation for a democratically elected government in Cuba.

(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with respect to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005);

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba, including the restrictions under part 515 of title 31, Code of Federal Regulations.

(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)(3)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005) are repealed; and

(4) section 902(c) of the Food Security Act of 1985 is repealed.[29]

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The

[28] 22 U.S.C. 6064.
[29] 7 U.S.C. 1446g note.

action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on _____.", with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) PROCEDURES.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6–month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6–month period thereafter.

SEC. 205.[30] REQUIREMENTS AND FACTORS FOR DETERMINING A TRANSITION GOVERNMENT.

(a) REQUIREMENTS.—For the purposes of this Act, a transition government in Cuba is a government that—

(1) has legalized all political activity;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has made public commitments to organizing free and fair elections for a new government—

(A) to be held in a timely manner within a period not to exceed 18 months after the transition government assumes power;

(B) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time

[30] 22 U.S.C. 6065.

for such access and the times of day such allotments are given; and

(C) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;

(5) has ceased any interference with Radio Marti or Television Marti broadcasts;

(6) makes public commitments to and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(7) does not include Fidel Castro or Raul Castro; and

(8) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people.

(b) ADDITIONAL FACTORS.—In addition to the requirements in subsection (a), in determining whether a transition government in Cuba is in power, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from a communist totalitarian dictatorship to representative democracy;

(2) has made public commitments to, and is making demonstrable progress in—

(A) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to privately owned media and telecommunications companies to operate in Cuba;

(B) permitting the reinstatement of citizenship to Cuban-born persons returning to Cuba;

(C) assuring the right to private property; and

(D) taking appropriate steps to return to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(3) has extradited or otherwise rendered to the United States all persons sought by the United States Department of Justice for crimes committed in the United States; and

(4) has permitted the deployment throughout Cuba of independent and unfettered international human rights monitors.

SEC. 206.[31] REQUIREMENTS FOR DETERMINING A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of this Act, a democratically elected government in Cuba, in addition to meeting the requirements of section 205(a), is a government which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which—

(i) opposition parties were permitted ample time to organize and campaign for such elections; and

(ii) all candidates were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of Cuba;

(5) has made demonstrable progress in establishing an independent judiciary; and

(6) has made demonstrable progress in returning to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or providing full compensation for such property in accordance with international law standards and practice.

SEC. 207.[32] SETTLEMENT OF OUTSTANDING UNITED STATES CLAIMS TO CONFISCATED PROPERTY IN CUBA.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall provide a report to the appropriate congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban Government that are held by United States nationals in addition to those claims certified under section 507 of the International Claims Settlement Act of 1949;

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of the Cuban economy;

(3) a review and evaluation of technical and other assistance that the United States could provide to help either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to resolve property questions;

(4) an assessment of the role and types of support the United States could provide to help resolve claims to property con-

[31] 22 U.S.C. 6066.
[32] 22 U.S.C. 6067.

fiscated by the Cuban Government that are held by United States nationals who did not receive or qualify for certification under section 507 of the International Claims Settlement Act of 1949; and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property claims in Cuba prior to a change of government in Cuba.

(d) SENSE OF CONGRES.—It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban Government recognized by the United States remains an essential condition for the full resumption of economic and diplomatic relations between the United States and Cuba.

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

SEC. 301.[33] FINDINGS.

The Congress makes the following findings:

(1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.

(2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.

(3) Since Fidel Castro seized power in Cuba in 1959—

(A) he has trampled on the fundamental rights of the Cuban people; and

(B) through his personal despotism, he has confiscated the property of—

(i) millions of his own citizens;

(ii) thousands of United States nationals; and

(iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.

(4) It is in the interest of the Cuban people that the Cuban Government respect equally the property rights of Cuban nationals and nationals of other countries.

(5) The Cuban Government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures using property and assets some of which were confiscated from United States nationals.

(6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise, to the current Cuban Government and thus undermines the foreign policy of the United States—

(A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time when the Castro regime has proven to be vulnerable to international economic pressure; and

[33] 22 U.S.C. 6081.

(B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban Government.

(7) The United States Department of State has notified other governments that the transfer to third parties of properties confiscated by the Cuban Government "would complicate any attempt to return them to their original owners".

(8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(9) International law recognizes that a nation has the ability to provide for rules of law with respect to conduct outside its territory that has or is intended to have substantial effect within its territory.

(10) The United States Government has an obligation to its citizens to provide protection against wrongful confiscations by foreign nations and their citizens, including the provision of private remedies.

(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures.

SEC. 302.[34] LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS.

(a) CIVIL REMEDY.—

(1) LIABILITY FOR TRAFFICKING.—(A) Except as otherwise provided in this section, any person that, after the end of the 3–month period beginning on the effective date of this title, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 303(a)(2), plus interest; or

(III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) court costs and reasonable attorneys' fees.

(B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

[34] 22 U.S.C. 6082.

(2) PRESUMPTION IN FAVOR OF THE CERTIFIED CLAIMS.—There shall be a presumption that the amount for which a person is liable under clause (i) of paragraph (1)(A) is the amount that is certified as described in subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) INCREASED LIABILITY.—(A) Any person that traffics in confiscated property for which liability is incurred under paragraph (1) shall, if a United States national owns a claim with respect to that property which was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, be liable for damages computed in accordance with subparagraph (C).

(B) If the claimant in an action under this subsection (other than a United States national to whom subparagraph (A) applies) provides, after the end of the 3–month period described in paragraph (1) notice to—

(i) a person against whom the action is to be initiated, or

(ii) a person who is to be joined as a defendant in the action,

at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30–day period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).

(C) Damages for which a person is liable under subparagraph (A) or subparagraph (B) are money damages in an amount equal to the sum of—

(i) the amount determined under paragraph (1)(A)(ii), and

(ii) 3 times the amount determined applicable under paragraph (1)(A)(i).

(D) Notice to a person under subparagraph (B)—

(i) shall be in writing;

(ii) shall be posted by certified mail or personally delivered to the person; and

(iii) shall contain—

(I) a statement of intention to commence the action under this section or to join the person as a defendant (as the case may be), together with the reasons therefor;

(II) a demand that the unlawful trafficking in the claimant's property cease immediately; and

(III) a copy of the summary statement published under paragraph (8).

(4) APPLICABILITY.—(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of the enactment of this Act.

(B) In the case of property confiscated before the date of the enactment of this Act, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before such date of enactment.

(C) In the case of property confiscated on or after the date of the enactment of this Act, a United States national who, after the property is confiscated, acquires ownership of a claim to the property by assignment for value, may not bring an action on the claim under this section.

(5) TREATMENT OF CERTAIN ACTIONS.—(A) In the case of a United States national who was eligible to file a claim with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim, that United States national may not bring an action on that claim under this section.

(B) In the case of any action brought under this section by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.

(C) A United States national, other than a United States national bringing an action under this section on a claim certified under title V of the International Claims Settlement Act of 1949, may not bring an action on a claim under this section before the end of the 2–year period beginning on the date of the enactment of this Act.

(D) An interest in property for which a United States national has a claim certified under title V of the International Claims Settlement Act of 1949 may not be the subject of a claim in an action under this section by any other person. Any person bringing an action under this section whose claim has not been so certified shall have the burden of establishing for the court that the interest in property that is the subject of the claim is not the subject of a claim so certified.

(6) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(7) LICENSES NOT REQUIRED.—(A) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action may be enforced, without obtaining any license or other permission from any agency of the United States, except that this paragraph shall not apply to the execution of a judgment against, or the settlement of actions involving, property blocked under the authorities of section 5(b) of the Trading with the Enemy Act that were being exercised on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act.

(B) Notwithstanding any other provision of law, and for purposes of this title only, any claim against the Cuban Government shall not be deemed to be an interest in property the transfer of which to a United States national required before the enactment of this Act, or requires after the enactment of this Act, a license issued by, or the permission of, any agency of the United States.

(8)[35] PUBLICATION BY ATTORNEY GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall prepare and publish in the Federal Register a concise summary of the provisions of this title, including a statement of the liability under this title of a person trafficking in confiscated property, and the remedies available to United States nationals under this title.

(b) AMOUNT IN CONTROVERSY.—An action may be brought under this section by a United States national only where the amount in controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees. In calculating $50,000 for purposes of the preceding sentence, the applicable amount under subclause (I), (II), or (III) of subsection (a)(1)(A)(i) may not be tripled as provided in subsection (a)(3).

(c) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in this title, the provisions of title 28, United States Code, and the rules of the courts of the United States apply to actions under this section to the same extent as such provisions and rules apply to any other action brought under section 1331 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action under this section, service of process on an agency or instrumentality of a foreign state in the conduct of a commercial activity, or against individuals acting under color of law, shall be made in accordance with section 1608 of title 28, United States Code.

(d) ENFORCEABILITY OF JUDGMENTS AGAINST CUBAN GOVERNMENT.—In an action brought under this section, any judgment against an agency or instrumentality of the Cuban Government shall not be enforceable against an agency or instrumentality of either a transition government in Cuba or a democratically elected government in Cuba.

(e) CERTAIN PROPERTY IMMUNE FROM EXECUTION.—Section 1611 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes.".

(f) ELECTION OF REMEDIES.—

(1) ELECTION.—Subject to paragraph (2)—

[35] The summary required by this paragraph may be found at 61 F.R. 24955 (Department of Justice, AG Order No. 2029–96, effective May 17, 1996).

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) TREATMENT OF CERTIFIED CLAIMANTS.—(A) In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949—

(i) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(ii) if the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in clause (i) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(iii) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in clause (i) to the same extent as any certified claimant who does not bring an action under this section.

(B) In the event some or all actions brought under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy the claims in such actions, including a pool of assets in a proceeding in bankruptcy, every claimant whose claim in an action so consolidated was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 shall be entitled to payment in full of its claim from the assets in such pool before any payment is made from the assets in such pool with respect to any claim not so certified.

(g) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER CLAIMS AGREEMENT.—Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (f) shall be deposited into the United States Treasury.

(h) TERMINATION OF RIGHTS.—

(1) IN GENERAL.—All rights created under this section to bring an action for money damages with respect to property confiscated by the Cuban Government—

(A) may be suspended under section 204(a); and

(B) shall cease upon transmittal to the Congress of a determination of the President under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) PENDING SUITS.—The suspension or termination of rights under paragraph (1) shall not affect suits commenced before the date of such suspension or termination (as the case may be), and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension or termination had not occurred.

(i) IMPOSITION OF FILING FEES.—The Judicial Conference of the United States shall establish a uniform fee that shall be imposed upon the plaintiff or plaintiffs in each action brought under this section. The fee should be established at a level sufficient to recover the costs to the courts of actions brought under this section. The fee under this subsection is in addition to any other fees imposed under title 28, United States Code.

SEC. 303.[36] PROOF OF OWNERSHIP OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—

(1) CONCLUSIVENESS OF CERTIFIED CLAIMS.—In any action brought under this title, the court shall accept as conclusive proof of ownership of an interest in property a certification of a claim to ownership of that interest that has been made by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) CLAIMS NOT CERTIFIED.—If in an action under this title a claim has not been so certified by the Foreign Claims Settlement Commission, the court may appoint a special master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and ownership of the claim. Such determinations are only for evidentiary purposes in civil actions brought under this title and do not constitute certifications under title V of the International Claims Settlement Act of 1949.

(3) EFFECT OF DETERMINATIONS OF FOREIGN OR INTERNATIONAL ENTITIES.—In determining the amount or ownership of a claim in an action under this title, the court shall not accept as conclusive evidence any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that declare the value of or invalidate the claim, unless the declaration of value or invalidation was found pursuant to binding international arbitration to which the United States or the claimant submitted the claim.

[36] 22 U.S.C. 6083.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following) is amended by adding at the end the following new section:

"DETERMINATION OF OWNERSHIP OF CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

"SEC. 514. Notwithstanding any other provision of this Act and only for purposes of section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, a United State district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996), resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of the action by the Government of Cuba.".

(c) RULE OF CONSTRUCTION.—Nothing in this Act or in section 514 of the International Claims Settlement Act of 1949, as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made under title V of the International Claims Settlement Act of 1949 before the date of the enactment of this Act.

SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE.

Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following), as amended by section 303, is further amended by adding at the end the following new section:

"EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE

"SEC. 515.[37] (a) Subject to subsection (b), neither any national of the United States who was eligible to file a claim under section 503 but did not timely file such claim under that section, nor any person who was ineligible to file a claim under section 503, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or nonmonetary compensation paid or allocated to a national of the United

[37] 22 U.S.C. 1643m.

States by virtue of a claim certified by the Commission under section 507, nor shall any district court of the United States have jurisdiction to adjudicate any such claim.

"(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of capital stock of nationals of the United States owning claims certified by the Commission under section 507.".

SEC. 305.[38] LIMITATION OF ACTIONS.

An action under section 302 may not be brought more than 2 years after the trafficking giving rise to the action has ceased to occur.

SEC. 306.[39] EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b) and (c), this title and the amendments made by this title shall take effect on August 1, 1996.

(b) SUSPENSION AUTHORITY.—

(1) SUSPENSION AUTHORITY.—The President may suspend the effective date under subsection (a) for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before such effective date that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) ADDITIONAL SUSPENSIONS.—The President may suspend the effective date under subsection (a) for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(c) OTHER AUTHORITIES.—

(1) SUSPENSION.—After this title and the amendments of this title have taken effect—

(A) no person shall acquire a property interest in any potential or pending action under this title; and

(B) the President may suspend the right to bring an action under this title with respect to confiscated property for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the suspension takes effect that such suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) ADDITIONAL SUSPENSIONS.—The President may suspend the right to bring an action under this title for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a sus-

[38] 22 U.S.C. 6084.
[39] 22 U.S.C. 6085.

pension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(3) PENDING SUITS.—The suspensions of actions under paragraph (1) shall not affect suits commenced before the date of such suspension, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension had not occurred.

(d) RESCISSION OF SUSPENSION.—The President may rescind any suspension made under subsection (b) or (c) upon reporting to the appropriate congressional committees that doing so will expedite a transition to democracy in Cuba.

TITLE IV—EXCLUSION OF CERTAIN ALIENS [40]

SEC. 401.[41] EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.

(a) GROUNDS FOR EXCLUSION.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who the Secretary of State determines is a person who, after the date of the enactment of this Act—

(1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

(2) traffics in confiscated property, a claim to which is owned by a United States national;

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(b) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) CONFISCATED; CONFISCATION.—The terms "confiscated" and "confiscation" refer to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement

[40] Guidelines for the implementation of title IV were issued on June 12, 1996, as Department of State Public Notice 2403 (61 F.R. 30655).

[41] 22 U.S.C. 6091.

agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(2) TRAFFICS.—(A) Except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i)(I) transfers, distributes, dispenses, brokers, or otherwise disposes of confiscated property,

(II) purchases, receives, obtains control of, or otherwise acquires confiscated property, or

(III) improves (other than for routine maintenance), invests in (by contribution of funds or anything of value, other than for routine maintenance), or begins after the date of the enactment of this Act to manage, lease, possess, use, or hold an interest in confiscated property,

(ii) enters into a commercial arrangement using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(c) EXEMPTION.—This section shall not apply where the Secretary of State finds, on a case by case basis, that the entry into the United States of the person who would otherwise be excluded under this section is necessary for medical reasons or for purposes of litigation of an action under title III.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—This section applies to aliens seeking to enter the United States on or after the date of the enactment of this Act.

(2) TRAFFICKING.—This section applies only with respect to acts within the meaning of "traffics" that occur on or after the date of the enactment of this Act.

(2) Enterprise for the Americas Initiative Act of 1992

Partial text of Public Law 102–532 [H.R. 4059], 106 Stat. 3509, approved October 27, 1992

NOTE.—Amendments to title VI of the Agricultural Trade Development and Assistance Act of 1954 enacted in Public Law 102–532 have been incorporated into that Act.

AN ACT To amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Enterprise for the Americas Initiative Act of 1992".

SEC. 2.[2] GOOD NEIGHBOR ENVIRONMENTAL ACT OF 1992. * * *

SEC. 3.[3] ANNUAL REPORTS TO THE CONGRESS. * * *

SEC. 4.[4] CENTER FOR NORTH AMERICAN STUDIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States through cooperative study, training, and research.

(b) LOCATION.—The Institute shall be located at an institution of higher education or at a consortium of such institutions.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.

SEC. 5. STUDY OF THE EFFECT OF FREE TRADE WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES ON THE UNITED STATES ECONOMY.

The President shall transmit to the Congress, not later than 8 months after the date of the enactment of this Act, a study describing—

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[1] 7 U.S.C. 1691 note.

[2] Sec. 2 added new secs. 616–619 to title VI of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738).

[3] Sec. 3 amended sec. 614(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm(a)).

[4] 7 U.S.C. 3294.

(1) in summary fashion, the likely effect on major United States industries and other sectors, including agriculture, that could be most affected by a hemispherical free trade zone with Latin American and Caribbean countries;

(2) the regions in the United States that would be most affected by a hemispherical free trade zone with Latin American and Caribbean countries and, in summary fashion, the nature of these effects;

(3) the extent to which horticultural exports from Latin American and Caribbean countries complement or compete with United States production;

(4) a country-by-country overview of recent economic developments in Latin American and Caribbean countries significantly influencing United States relations with such countries, including present trade and investment patterns in these regions;

(5) the likely effect of a hemispherical free trade zone with Latin American and Caribbean countries on the United States economy and its multilateral interrelationship with other countries in the region, including Canada and Mexico;

(6) the extent to which manufactured products exported from Latin American and Caribbean countries complement or compete with United States production; and

(7) the likely effects of a hemispherical free trade zone with Latin American and Caribbean countries on existing environmental, agricultural, labor, and consumer protection laws and practices within the United States and within the other countries included in the zone.

SEC. 6.[5] THE GOOD NEIGHBOR ENVIRONMENTAL BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the "Board").

(b) PURPOSE.—The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.

(c) MEMBERSHIP.—The Board shall be composed of—

(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;

(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and

(3) representatives from private organizations, including community development, academic, health, environmental, and other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.

(d) ANNUAL REPORTS TO THE PRESIDENT AND CONGRESS.—

(1) IN GENERAL.—The Board shall submit to the President and the Congress of the United States an annual report on—

[5] 7 U.S.C. 5404.

(A) the environmental and infrastructure projects referred to in subsection (a) that have been implemented, and

(B) the need for the implementation of additional environmental and infrastructure projects.

(2) TRANSMISSION OF COPIES TO BOARD MEMBERS.—The Board shall—

(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and

(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views with respect to the recommendations of the Board for inclusion in such report.

(3) Enterprise for the Americas Facility as Established in P.L. 480

Title VI of Public Law 83–480 [S. 2475], 68 Stat. 454, approved July 10, 1954; as amended

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601.[1] ESTABLISHMENT OF THE FACILITY.

There is established in the Department of the Treasury an entity to be known as the "Enterprise for the Americas Facility" (hereafter referred to in this title as the "Facility").

SEC. 602.[2] PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. The Facility will support such objectives through the administration of debt reduction operations relating to those countries that meet investment reform and other policy conditions provided for in this title.

SEC. 603.[3] ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country shall—

(1) be a Latin American or Caribbean country;

(2) have in effect or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress towards the establishment of—

(A) an International Monetary Fund (hereafter referred to in this title as the "IMF") standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF-monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development (hereafter referred to in this title as the "World Bank") or the International Development Association (hereafter referred to in this title as the "IDA");

(3) have placed into effect major investment reforms in conjunction with an Inter-American[4] Development Bank (hereafter referred to as the "IDB") loan or otherwise be implement-

[1] 7 U.S.C. 1738.
[2] 7 U.S.C. 1738a.
[3] 7 U.S.C. 1738b.
[4] Sec. 302 of Public Law 102–237 (105 Stat. 1855) added the hyphen to "Inter-American".

ing, or making significant progress towards an open investment regime; and

(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATION.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

SEC. 604.[5] REDUCTION OF CERTAIN DEBT.

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States or any agency of the United States, and outstanding as of January 1, 1990, as a result of any credits extended under title I to a country eligible for benefits from the Facility.

(2) AVAILABILITY[6] OF APPROPRIATIONS.—The authorities under this section may be exercised only to the extent provided for in advance in appropriation Acts.

(b) LIMITATION.—A debt reduction authorized under subsection (a) shall be accomplished, at the direction of the Facility, through the exchange of a new obligation under this title for obligations of the type referred to in subsection (a) outstanding as of January 1, 1990.

(c) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under subsection (b) with an eligible country to exchange a new obligation for outstanding obligations. At the direction of the Facility, the old obligations that are the subject of the agreement may be canceled and a new debt obligation may be established for the country relating to the agreement. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect a debt reduction under this section.

SEC. 605.[7] REPAYMENT OF PRINCIPAL.

(a) CURRENCY OF PAYMENT.—The principal amount owed under each new obligation issued under section 604 shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments on new obligations issued under section 604 shall be deposited in Commodity Credit Corporation accounts.

SEC. 606.[8] INTEREST OF NEW OBLIGATIONS.

(a) RATE OF INTEREST.—New obligations issued to an eligible country under section 604 shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT, DEPOSITS.—

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[5] 7 U.S.C. 1738c. Title II, chapter VIII of Public Law 102–27 (105 Stat. 147, 7 U.S.C. 1736e note) provided the following:

"Title I of Public Law 480 program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill, all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.".

[6] Sec. 303 of Public Law 102–237 (105 Stat. 1855) corrected the spelling of "Availability".

[7] 7 U.S.C. 1738d.

[8] 7 U.S.C. 1738e.

(1) UNITED STATES DOLLARS.—An eligible country to which a new obligation has been issued under section 604 that has not entered into an agreement under section 607, shall be required to pay interest on such obligation in United States dollars which shall be deposited in Commodity Credit Corporation accounts.

(2) LOCAL CURRENCY.—If an eligible country to which a new obligation has been issued under section 604 has entered into an agreement under section 607, interest under such obligation may be paid in the local currency of the eligible country and deposited into an Environmental Fund as provided for in section 608. Such interest shall be the property of the eligible country until such time as it is disbursed under section 608. Such local currencies shall be used for the purposes specified in the agreement entered into under section 607.

(c) INTEREST PREVIOUSLY PAID.—If an eligible country to which a new obligation has been issued under section 604 enters into an agreement under section 607 subsequent to the date on which interest first becomes due on such new obligation, any interest paid on such new obligation prior to such agreement being entered into shall not be redeposited into the Fund established for the eligible country under section 608(a) but shall be deposited into Commodity Credit Corporation accounts.[9]

SEC. 607.[10] ENVIRONMENTAL FRAMEWORK AGREEMENTS.

(a) AUTHORITY.—The President is authorized to enter into an environmental framework agreement with each country eligible for benefits from the Facility concerning the operation and use of an Enterprise for the Americas Environmental Fund (hereafter referred to in this title as the "Environmental Fund")[11] established under section 608 for that country. The President shall consult with the Board established under section 610 when entering into such agreements.

(b) REQUIREMENTS.—An environmental framework agreement entered into under this section shall—

(1) require the eligible country to establish an Environmental Fund;

(2) require the eligible country to make interest payments under section 608(a) into the Environmental Fund;

(3) require the eligible country to make prompt disbursements from the Environmental Fund to the body described in subsection (c);

(4) where appropriate, seek to maintain the value of the local currency resources deposited into the appropriate Environmental Fund in terms of United States dollars;

(5) specify, in accordance with section 612, the purposes for which the Environmental Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

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[9] Sec. 304 of Public Law 102–237 (105 Stat. 1855) inserted "accounts" after "Corporation".

[10] 7 U.S.C. 1738f.

[11] In a technical correction, sec. 305 of Public Law 102–237 (105 Stat. 1855) moved the close quotation mark.

(c) ADMINISTERING BODY.—Funds disbursed from the Environmental Fund in an eligible country shall be administered by a body constituted under the laws of the country. Such body shall—

(1) be composed of—

(A) one or more representatives appointed by the President;

(B) one or more representatives appointed by the eligible country; and

(C) representatives from a broad range of environmental and local community development nongovernmental organizations of the host country;

the majority of which shall be local representatives from nongovernmental organizations, and scientific or academic bodies;

(2) receive proposals for grant assistance from local organizations, and make grants to such organizations in accordance with the priorities agreed upon in the framework agreement and consistent with the overall purposes of section 612;

(3) be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

(4) be subject to fiscal audits by an independent auditor on an annual basis;

(5) present an annual program for review by the Board established under section 610 each year;

(6) present an annual report on the activities undertaken during the previous year to the Chairman of the Board established under section 610, and the government of the eligible country each year; and

(7) have any grant over $100,000 be subject to veto by the United States and the government of the eligible country.

SEC. 608.[12] ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUNDS.

(a) ESTABLISHMENT.—An eligible country shall, under the terms of an environmental framework agreement entered into under section 607, establish an Environmental Fund to receive payments in local currency pursuant to section 607(b)(1).

(b) INVESTMENT.—Amounts deposited into an Environmental Fund shall be invested until disbursed. Notwithstanding any other provision of law, any return on such investment may be retained by the Environmental Fund and need not be deposited to the account of the Commodity Credit Corporation and may be retained without further appropriation by Congress.

SEC. 609.[13] DISBURSEMENT OF ENVIRONMENTAL FUNDS.

Funds in an Environmental Fund shall be disbursed only pursuant to a framework agreement entered into pursuant to section 607.

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[12] 7 U.S.C. 1738g.
[13] 7 U.S.C. 1738h.

SEC. 610.[14] ENTERPRISE FOR THE AMERICAS BOARD.

(a) ESTABLISHMENT.—There is established a board to be known as the "Enterprise[15] for the Americas Board" (hereafter referred to in this title as the "Board").

(b) MEMBERSHIP AND CHAIRPERSON.—

(1) MEMBERSHIP.—The Board shall be composed of—

(A) six[16] representatives from the United States Government, at least one of whom shall be a representative of the Department of Agriculture;[16] and

(B) five[17] representatives from private nongovernmental environmental, child survival and child development,[18] community development, scientific, and academic organizations with experience and expertise in Latin America and the Caribbean, at least one of whom shall be a representative from a child survival and child development organization;[19]

to be appointed by the President.

(2) CHAIRPERSON.—The Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under paragraph (1)(A).

(c) RESPONSIBILITIES.—The Board shall—

(1) advise the President on the negotiations for the environmental framework agreements described in subsections (a) and (b) of section 607;

(2) ensure, in consultation with the government of the appropriate eligible country, with nongovernmental organizations of such eligible country, and if appropriate, of the region, and with environmental, scientific, and academic leaders of such eligible country and, as appropriate, of the region, that a suitable body referred to in section 607(c) is identified; and

(3) review the programs, operations, and fiscal audits of the bodies referred to in section 607(c).

SEC. 611.[20] OVERSIGHT.

The President may designate appropriate United States agencies to review the implementation of programs under this title and the fiscal audits relating to such programs. Such oversight shall not constitute active management of an Environmental Fund.

SEC. 612.[21] ELIGIBLE ACTIVITIES AND GRANTEES.

(a) ELIGIBLE ENTITIES.—Activities eligible to receive assistance through the framework agreements entered into under section 607, shall include—

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[14] 7 U.S.C. 1738i. Sec. 603(1) of Public Law 102–549 (106 Stat. 3669) amended the catchline; it formerly read "Environment * * *".

[15] Sec. 603(2) of Public Law 102–549 (106 Stat. 3669) struck out "Environment" and inserted in lieu thereof "Enterprise".

[16] Sec. 339(1) of Public Law 102–237 (105 Stat. 1861) struck out "five" and inserted in lieu thereof "six", and added after "Government" the text ", at least one of whom shall be a representative of the Department of Agriculture".

[17] Sec. 339(2) of Public Law 102–237 (105 Stat. 1861) struck out "four" and inserted in lieu thereof "five".

[18] Sec. 603(3)(A) of Public Law 102–549 (106 Stat. 3669) inserted "child survival and child development," after "environmental,".

[19] Sec. 603(3)(B) of Public Law 102–549 (106 Stat. 3669) inserted ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

[20] 7 U.S.C. 1738j.

[21] 7 U.S.C. 1738k.

(1) activities of the type described in the Global Environmental Protection Assistance Act of 1989 (22 U.S.C. 2281 et seq.);[22]

(2) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(3) local community initiatives that promote conservation and sustainable use of the environment.

(b) REGULATION.—All activities of the type referred to in subsection (a) shall, where appropriate, include initiatives that link conservation of natural resources with local community development.

(c) SETTING OF PRIORITIES.—Appropriate activities and priorities relating to the use of an Environmental Fund shall be set by local nongovernmental organizations within the appropriate eligible country.

(d) GRANTS.—Grants may be made by the body referred to in section 607(c) from the Environmental Fund for environmental purposes to—

(1) host country nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations;

(2) other appropriate local or regional entities; or

(3) in exceptional circumstances, the government of the eligible country.

(e) PRIORITY.—In providing assistance from an Environmental Fund, the body established under section 607(c) within the eligible country shall give priority to projects that are run by nongovernmental organizations and other private entities, and that involve local communities in their planning and execution.

SEC. 613.[23] ENCOURAGING MULTILATERAL DEBT DONATIONS.

(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of an eligible country to provide debt reduction to such eligible country.

(b) ENCOURAGING DONATIONS FROM OTHER SOURCES.—The President shall make every effort to insure that programs established through Environmental Funds are able to receive donations from private and public entities, and private creditors of the eligible country.

SEC. 614.[24] ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later[25] than December 31 of each fiscal year, the President shall prepare and submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an annual report concerning the operation of the Facility for the prior fiscal year. This report shall include—[26]

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[22] Sec. 306 of Public Law 102–237 (105 Stat. 1856) corrected a typographical error here by striking "462), and—", and inserted in lieu thereof "2281 et seq.);".

[23] 7 U.S.C. 1738*l*.

[24] 7 U.S.C. 1738m.

[25] Sec. 330 of Public Law 102–237 (105 Stat. 1858) struck out "Not later" and inserted in lieu thereof "(a) IN GENERAL.—Not later", and added subsec. (b).

[26] Sec. 3 of Public Law 102–532 (106 Stat. 3512) added the rest of subsec. (a) from "This report shall include—".

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Environmental Framework Agreement entered into under this title;

(3) a report on what Environmental Funds have been established under this title and on the operations of such Funds; and

(4) a description of any grants that have been extended by administering bodies pursuant to an Environmental Framework Agreement under this title.

(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

SEC. 615.[27] CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.

SEC. 616.[28] SALE OF QUALIFIED DEBT TO ELIGIBLE COUNTRIES.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The President may sell to an eligible country up to 40 percent of such country's qualified debt, only if an amount of the local currency of such country (other than the price paid for the debt) equal to—

(A) not less than 40 percent of the price paid for such debt by such eligible country, or

(B) the difference between the price paid for such debt and the face value of such debt;

whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 612.

(2) ENVIRONMENTAL FUNDS.—For purposes of this section, the term "Environmental Fund" means an Environmental Fund established under section 608. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.

(3) ESTABLISHMENT AND OPERATION OF ENVIRONMENTAL FUNDS.—The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.

(c) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

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[27] 7 U.S.C. 1738n. Added by sec. 331 of Public Law 102–237 (105 Stat. 1858).

[28] 7 U.S.C. 1738o. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(e) IMPLEMENTATION BY THE FACILITY.—A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Corporation to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.

(f) DEPOSIT OF PROCEEDS.—The proceeds from a sale of qualified debt under this section shall be deposited in the account or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.

(g) DEBTOR CONSULTATION.—Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.

SEC. 617.[29] SALE, REDUCTION, OR CANCELLATION OF QUALIFIED DEBT TO FACILITATE CERTAIN DEBT SWAPS.

(a) AUTHORITY TO SELL, REDUCE, OR CANCEL QUALIFIED DEBT.—For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—

(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1)) any qualified debt of an eligible country; or

(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2)).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.

(c) ELIGIBLE PURCHASERS AND ELIGIBLE PAYORS.—

(1) SALES OF DEBT.—Qualified debt may be sold pursuant to subsection (a)(1) only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.

(2) REDUCTION OR CANCELLATION OF DEBT.—Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) only if the payor presents plans satisfactory to the President for using such reduction or cancellation for the purpose of facilitating eligible debt swaps.

(d) DEBTOR CONSULTATION AND RIGHT OF FIRST REFUSAL.—

(1) CONSULTATION.—Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.

(2) RIGHT OF FIRST REFUSAL.—The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to

[29] 7 U.S.C. 1738p. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

purchase that debt pursuant to section 616 and has not accepted that offer.

(e) LIMITATION.—In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 616.

(f) ADMINISTRATION.—The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c), and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.

(g) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(h) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.

(i) ELIGIBLE DEBT SWAPS.—As used in this section, the term "eligible debt swap" means a debt-for-development swap or debt-for-nature swap.

SEC. 618.[30] NOTIFICATION TO CONGRESSIONAL COMMITTEES.

(a) NOTICE OF NEGOTIATIONS.—The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this title.

(b) TRANSMITTAL OF TEXT OF AGREEMENTS.-The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this title no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.

(c) ANNUAL REPORT.—The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief agreements entered into force under this title during the preceding fiscal year.

(d) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term "designated congressional committees" means the Committee on Agriculture and the Committee on Foreign Affairs[31] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 619.[32] DEFINITION OF QUALIFIED DEBT.

As used in sections 616, 617, and 618, the term "qualified debt" means any obligation, or portion of such obligation, of an eligible

[30] 7 U.S.C. 1738q. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

[31] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[32] 7 U.S.C. 1738r. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966—

(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and

(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.

Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 616 or a debt sale, reduction, or cancellation pursuant to section 617 (as the case may be).

(4) Urgent Assistance for Democracy in Panama Act of 1990

Partial text of Public Law 101–243 [H.R. 3952], 104 Stat. 7, approved February 14, 1990

AN ACT To authorize certain United States assistance and trade benefits for Panama and for other purposes.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "Urgent Assistance for Democracy in Panama Act of 1990".

TITLE I—PANAMA

SEC. 101. IMMEDIATE UNITED STATES ASSISTANCE.

(a) ECONOMIC ASSISTANCE PROGRAMS.—

(1) AUTHORITY TO USE FUNDS FOR ECONOMIC ASSISTANCE.—

(A) IN GENERAL.—The President may use up to $32,000,000 of funds made available for economic assistance for Panama for fiscal year 1990 notwithstanding the provisions of law specified in subsection (c) of this section.

(B) DEOBLIGATION/REOBLIGATION AUTHORITY.—Funds may be made available for use under subparagraph (A) without regard to the limitation in section 515 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), that funds deobligated under that section are available for reobligation only for countries within the same general region for which the funds were originally obligated.

(C) ECONOMIC ASSISTANCE DEFINED.—As used in subparagraph (A), the term "economic assistance" means assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development and related economic assistance programs) and assistance under chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

(2) AUTHORITY TO USE CERTAIN GUARANTEE AUTHORITIES.—The President—

(A) may use up to $10,000,000 of the guaranty authority available to carry out section 222 of the Foreign Assistance Act of 1961 (22 U.S.C. 2182; relating to the housing guaranty program), and

(B) may exercise the authorities of section 224 of that Act (22 U.S.C. 2184; relating to the trade credit insurance program for Central America),

with respect to Panama for fiscal year 1990 without regard to the provisions of law specified in subsection (c) of this section.

(b) LAW ENFORCEMENT ASSISTANCE.—

(1) ADMINISTRATION OF JUSTICE PROGRAM.—Up to $1,200,000 of the funds made available for Panama under subsection (a)(1) of this section may be used to provide—

(A) assistance authorized by subsection (b)(3) of section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program); and

(B) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civilian law enforcement techniques, notwithstanding section 660 of that Act (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces).

All assistance provided for Panama under this paragraph shall be counted toward the limitation contained in the second sentence of section 534(e) of that Act[1] and toward the requirement of the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167).[2]

(2) USE OF MILITARY ASSISTANCE PIPELINE FOR PANAMA TO PROCURE LAW ENFORCEMENT EQUIPMENT.—

(A) AUTHORITY.—Prior year military assistance funds that are obligated for Panama shall be available to finance the procurement of defense articles by law enforcement services (other than training) notwithstanding the provisions of law specified in subsection (c) of this section and section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces).

(B) LIMITATIONS ON LETHAL EQUIPMENT.—Not more than $500,000 of the funds made available under subparagraph (A) may be used for the procurement of lethal equipment. Only lethal equipment that is appropriate for standard civilian law enforcement requirements may be procured with such funds.

(C) PRIOR YEAR MILITARY ASSISTANCE FUNDS DEFINED.—As used in subparagraph (A), the term "prior military assistance funds" means funds that were appropriated for a fiscal year prior to fiscal year 1990 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits).

(3) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—

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[1] The second sentence of sec. 534(e) of the Foreign Assistance Act of 1961 provided the following regarding funds for the Administration of Justice program:

"Of the funds made available to carry out this section, not more than $7,000,000 may be made available in fiscal year 1990 to carry out the provisions of subsection (b)(3) of this section.".

[2] The second sentence of sec. 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), provided the following:

"Not less than $7,000,000 of the funds made available to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1990 shall be made available for the purposes of subsection 534(b)(3) of the Foreign Assistance Act of 1961.".

(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogrammings under that section at least 15 days before—

(i) each obligation of funds under paragraph (1) of this subsection, and

(ii) each commitment to use funds under paragraph (2) of this subsection.

(B) EXCEPTION.—Such notification is not required with respect to—

(i) obligations under paragraph (1), and

(ii) commitments to use funds under paragraph (2) for the procurement of uniforms and communications equipment (and related defense services),

that occur prior to the end of the 15-day period beginning on the date of enactment of this Act to the extent that such obligations or commitments, as the case may be, were previously justified to the Congress.

(c) BROOKE-ALEXANDER AMENDMENT.—The provisions of law referred to in subsections (a)(1), (a)(2), and (b)(2)(A) of this section are sections 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q); and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), and the corresponding sections of foreign assistance appropriations Acts for prior fiscal years.

SEC. 102. RESUMPTION OF UNITED STATES ASSISTANCE: ANTINARCOTICS CERTIFICATION REQUIREMENTS.

Because the vital national interests of the United States so require and because the Endara government of Panama has indicated its willingness, and is taking steps, to cooperate fully with the United States to control narcotics production, trafficking, and money laundering, the requirements of paragraphs (1) and (5) of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)) shall cease to apply to Panama as of the date of enactment of this Act to the extent that those requirements became applicable to Panama by reason of the fact that the President did not make a certification with respect to Panama under paragraph (2) of that section at the time the international narcotics control strategy reports for 1988 and 1989 were submitted to the Congress pursuant to section 481(e) of that Act.

SEC. 103. RESUMPTION OF TRADE BENEFITS: ANTINARCOTICS CERTIFICATION REQUIREMENTS.

(a) RESUMPTION UPON DATE OF ENACTMENT.—Because the vital national interests of the United States so require and because the Endara government of Panama has indicated its willingness, and is taking steps, to cooperate fully with the United States to control narcotics production, trafficking, and money laundering, the conditions specified in section 802(b)(4)(B) of the Narcotics Control Trade Act (19 U.S.C. 2492(b)(4)(B)) shall be deemed to be satisfied as of the date of enactment of this Act with respect to the action

taken pursuant to section 802(a) of that Act that is described in subsection (b) of this section.

(b) SPECIFICATION OF BENEFITS.—The action referred to in subsection (a) is the denial to articles imported from Panama of preferential tariff treatment under the Generalized System of Preferences (19 U.S.C. 2461 and following) and the Caribbean Basic Economic Recovery Act (19 U.S.C. 2701 and following) pursuant to Presidential Proclamation 5779 of March 23, 1988.[3]

SEC. 104. REPORT ON PANAMANIAN BANK SECRECY LAWS.

(a) CONGRESSIONAL CONCERNS.—The Congress commends the Endara Government for its cooperation and assistance in freezing Panamanian bank accounts believed to be implicated in narcotics-related and other illegal financial transactions. The Congress remains concerned, however, that the current status of bank secrecy laws in Panama may lend itself to continued criminal abuse of those laws despite the best intentions of the Endara Government.

(b) REPORT.—Therefore, no later than April 15, 1990, the President shall submit a detailed report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on specific actions being undertaken by the Government of Panama to modify the existing bank secrecy regime in order to facilitate detection and prosecution of criminal activities, including—

(1) the modification of bank secrecy laws by the Government of Panama;

(2) the conclusion of an exchange-of-information agreement between the United States and Panama; and

(3) agreements entered into by the Government of Panama or in the process of negotiation that are designed to deter illegal financial transactions and to facilitate early detection and prosecution of such illegal activities.

TITLE II—EASTERN EUROPE AND YUGOSLAVIA

SEC. 201. ASSISTANCE TO SUPPORT TRANSITION TO DEMOCRACY.[4]

* * * * * * *

[3] For text of Presidential Proclamation 5779, see 53 F.R. 9850.
[4] For text, see page 88.

(5) Survival Assistance to Victims of Civil Strife in Central America

Public Law 101–215 [H.R. 3696], 103 Stat. 1852, approved December 11, 1989, as amended by Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990

AN ACT To provide survival assistance to victims of civil strife in Central America.

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

SECTION 1. SURVIVAL ASSISTANCE

(a) AUTHORIZATION.—The Agency for International Development shall use unobligated funds made available pursuant to section 8(a) of Public Law 100–276 to provide medical care and other relief for noncombatant victims of strife in Central America. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help orphans, and otherwise provide assistance for noncombatants who have been physically injured or displaced by civil strife in Central America. Priority shall be given to those with the greatest needs for assistance.

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as Catholic Relief Services, the International Committee of the Red Cross, CARE, the United Nations Children's Fund, the United Nations High Commission for Refugees, Partners of the Americas, and the Pan American Health Organization.

(c)[1] ASSISTANCE IN NICARAGUA. * * * [Repealed—1990]

[1] Sec. 577(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2044), repealed subsec. (c). It previously read as follows:

"(c) Not more than one-half of the assistance provided under this section may be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of the assistance pursuant to this section may be provided to or through the Government of Nicaragua.".

Sec. 577(a) of that Act also provided that:

"(a) None of the funds appropriated by this Act [Public Law 101–513] shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.".

(6) Central American Peace Assistance

Public Law 100–276 [H.J.Res. 523], 102 Stat. 62, approved April 1, 1988

JOINT RESOLUTION To provide assistance and support for peace, democracy, and reconciliation in Central America.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL POLICY.—It is the policy of the United States to advance peace and democracy in Central America, and to preserve and protect security interests in the region. Pursuant to that policy, it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord of August 7, 1987, the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, the Agreement Between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua (hereinafter referred to as the "Sapoa Agreement") and consistent with the national security interests of the United States.

SEC. 2. CONSISTENCY WITH SAPOA AGREEMENT.—The assistance and support for which this joint resolution provides shall be administered consistent with the Sapoa Agreement. No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaraguan democratic resistance.

SEC. 3. PURPOSE OF ADDITIONAL ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE.—(a) CONGRESSIONAL INTENT.—It is the intention of Congress in providing additional assistance to the Nicaraguan democratic resistance to reinforce the Central American peace process by supporting negotiations leading to a permanent negotiated ceasefire agreement. Such an agreement is seen by the Congress as an essential step towards the establishment of peace and democracy in Nicaragua. The Congress provides assistance under this section with the understanding and strong expectation that the Government of Nicaragua and the Nicaraguan democratic resistance will cease permanently offensive military activities against each other and engage in good faith negotiations towards a permanent ceasefire.

(b) TRANSFER AND USE.—(1) The President is authorized to transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide assistance for the Nicaraguan democratic resistance in accordance with this joint resolution. Funds so transferred shall remain available through September 30, 1988.

(2) The amount which is authorized to be transferred under paragraph (1) shall be reduced by the cost to the United States Government of any items or services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e).

(c) DESCRIPTION OF ASSISTANCE ALLOWED.—(1) As used in this section, "assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items or services.

(2) The term "assistance" under this section also includes, to the extent consistent with the Sapoa Agreement, the use of not to exceed $1,500,000 of the funds made available under subsection (b) for the purchase of communications equipment.

(d) LIMITATIONS.—The amount of funds transferred under subsection (b) which is obligated each month for purchasing items and services described in subsection (c)(1)—

(1) for April and May 1988, shall not exceed $2,900,000, of which not less than $400,000 each month shall be available only for medical supplies and medical services; and

(2) for any month thereafter, shall not exceed $2,700,000,

except that each such amount for any month shall be reduced by the cost to the United States Government of the items and services described in subsection (c)(1)) (medical supplies and medical services in the case of the second amount specified in paragraph (1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e) during that month.

(e) TRANSPORTATION.—(1) The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified, in section 6, such funds as may be necessary to provide, to the extent consistent with the Sapoa Agreement, transportation for the assistance authorized by subsection (b), including rental and indemnification of aircraft, trucks or other vehicles, and transportation for the items and services described in paragraph (3) of this subsection.

(2) Transportation provided under this subsection may not be used to deliver any assistance for the Nicaraguan democratic resistance other than the assistance authorized by subsection (b) and the items and services described in paragraph (3) of this subsection.

(3) Transportation may be provided under this subsection for items and services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance.

(f) PROHIBITIONS.—(1) Funds transferred by subsections (b) or (e) may not be obligated or expended to purchase aircraft or weapons, weapons systems, or ammunition or any other item or service not permitted under subsection (c) or to provide any transportation other than transportation permitted under subsection (e).

(2) Except for items delivered under subsection (e)(3), no item authorized by "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99–500 and 99–591) or section 111 of the joint resolution

making further continuing appropriations for the fiscal year 1988 (Public Law 100–202) may be provided to the Nicaragua democratic resistance.

(g) ASSISTANCE FOR YATAMA.—(1) In order to support all elements of the Nicaraguan democratic resistance, assistance authorized by subsection (b) (including the cost of the United States Government of items and services delivered under subsection (e)(3)) in the amount of $2,190,000 shall be provided only to the Indian resistance force known as Yatama.

(2) The Agency for International Development shall ensure that assistance under this subsection for Yatama is provided consistent with the Preliminary Accord signed by Yatama and the Government of Nicaragua on February 2, 1988, and any subsequent agreement based on that Accord.

SEC. 4. DIRECTION, MANAGEMENT AND DELIVERY.—(a) DELIVERY OF ASSISTANCE.—(1) The Agency for International Development shall direct, manage and provide for the delivery of assistance and support to the Nicaraguan democratic resistance through neutral organizations consistent with the Sapoa Agreement and as authorized by this joint resolution.

(2) The President shall transfer not to exceed $2,500,000 from the unobligated funds in the appropriations accounts specified in section 6 for "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out the purposes of this joint resolution.

(b) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—Prohibitions on the furnishing of foreign assistance to Nicaragua shall not be construed to apply to the provision within Nicaragua of the assistance authorized by this joint resolution.

(c) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROLS.—In implementing this joint resolution, the Agency for International Development shall adopt standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan democratic resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100–202).

(d) INTERAGENCY COOPERATION.—All Government agencies shall cooperate with the Agency for International Development to ensure the orderly, effective direction, management, and delivery by the Agency of assistance for the Nicaraguan democratic resistance. Such cooperation shall include detailing to the Agency, on a reimbursable basis, such personnel as the Agency, with the approval of the President, may request.

(e) SUPPLEMENTAL AUTHORITIES.—In addition to the authorities otherwise available by law to the Agency for International Development, in carrying out this joint resolution, the Agency for International Development may exercise the same authorities, including authorities relating to procurement and expenditure of Government funds other than confidential funds, as the agency administering the assistance provided pursuant to section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100–202) could exercise with respect to provision of that assistance.

SEC. 5. GENERAL AUTHORITIES AND LIMITATIONS.—(a) REQUIREMENTS DEEMED SATISFIED.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100–178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100–202), section 10 of Public Law 91–672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use, consistent with the provisions of this joint resolution, of the funds made available by this joint resolution.

(b) CONTINUATION OF LIMITATIONS.—Sections 203(e), 204(b), 207, 209(b), 209(c), and 216 in "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99–500 and 99–591), shall apply with respect to funds made available by this joint resolution, except that section 216 shall not apply with respect to personnel of the Agency for International Development or the Department of State.

SEC. 6. DEFENSE APPROPRIATIONS ACCOUNTS.—The appropriations accounts to which this resolution refers are the following accounts in the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99–190):

(1) Missile Procurement, Army;
(2) Other, Procurement, Army;
(3) Other Procurement, Navy;
(4) Missile Procurement, Air Force;
(5) Aircraft Procurement, Air Force; and
(6) Weapons Procurement, Navy;

except that section 1351 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661) shall apply.

SEC. 7. AUDIT OF FUNDS.—The Comptroller General shall conduct an independent audit of funds expended in the provision of assistance and support under this joint resolution.

SEC. 8. CHILDREN'S SURVIVAL ASSISTANCE.—(a)[1] AUTHORIZATION.—The President shall transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide medical care and other relief for children who are victims of the Nicaraguan civil strife. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife. Priority shall be given to those children with the greatest needs for assistance. Funds transferred pursuant to this subsection shall remain available until expended.

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[1] Sec. 1 of Public Law 101–215 (103 Stat. 1852) provided the following:
"(a) AUTHORIZATION.—The Agency for International Development shall use unobligated funds made available pursuant to section 8(a) of Public Law 100–276 to provide medical care and other relief for noncombatant victims of civil strife in Central America. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help orphans, and otherwise provide assistance for noncombatants who have been physically injured or displaced by civil strife in Central America. Priority shall be given to those with the greatest needs for assistance.".

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Children's Fund, United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan-American Health Organization.

(c) CHILDREN IN NICARAGUA.—At least one-half of the assistance provided under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of this assistance may be provided to or through the Government of Nicaragua.

SEC. 9. VERIFICATION COMMISSION.—The President shall transfer to the Agency for International Development $10,000,000 of unobligated funds from the appropriations accounts specified in section 6 for periodic payments to support the activities of the Verification Commission established by the Sapoa Agreement. Funds transferred pursuant to this section shall remain available until expended.

(7) Latin American Development Act, as amended

Public Law 86–735 [H.R. 13021], 74 Stat. 869, approved September 8, 1960; as amended by Public Law 87–195 [Foreign Assistance Act of 1961, S. 1983], 75 Stat. 424, approved September 4, 1961; and by Public Law 88–205 [Foreign Assistance Act of 1963, H.R. 7885], 77 Stat. 379, approved December 16, 1963

AN ACT To provide for assistance in the development of Latin America and in the reconstruction of Chile, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Latin American Development Act".[1]

STATEMENT OF POLICY

Sec. 1.[2] (a) It is the sense of the Congress that—

(1) the historic, economic, political, and geographic relationships among the American Republics are unique and of special significance and, as appropriate, should be so recognized in future legislation;

(2) although governmental forms differ among the American Republics, the peoples of all the Americas are dedicated to the creation and maintenance of governments which will promote individual freedom;

(3) the interests of the American Republics are so interrelated that sound social and economic progress in each is of importance to all and that lack of it in any American Republic may have serious repercussions in others;

(4) for the peoples of Latin America to continue to progress within the framework of our common heritage of democratic ideals, there is a compelling need for the achievement of social and economic advance adequate to meet the legitimate aspirations of the individual citizens of the countries of Latin America for a better way of life;

(5) there is a need for a plan of hemispheric development, open to all American Republics which cooperate in such plan, based upon a strong production effort, the expansion of foreign trade, the creation and maintenance of internal financial stability, the growth of free economic and social institutions, and the development of economic cooperation, including all possible steps to establish and maintain equitable rates of exchange and to bring about the progressive elimination of trade barriers;

(6) mindful of the advantages which the United States has enjoyed through the existence of a large domestic market with

[1] Sec. 401(a) of the FA Act of 1963 (Public Law 88–205) inserted the words "That this Act may be cited as the 'Latin American Development Act'."

[2] 22 U.S.C. 1942.

no internal trade barriers, and believing that similar advantages can accrue to all countries, it is the hope of the people of the United States that all American Republics will jointly exert sustained common efforts which will speedily achieve that economic cooperation in the Western Hemisphere which is essential for lasting peace and prosperity; and

(7) accordingly, it is declared to be the policy of the people of the United States to sustain and strengthen principles of individual liberty, free institutions, private enterprise, and genuine independence in the Western Hemisphere through cooperation with all American Republics which participate in a joint development program based upon self-help and mutual efforts.

(b) In order to carry forward the above policy, the Congress hereby—

(1) urges the President through our constitutional processes to develop cooperative programs on a bilateral or multilateral basis which will set forth specific plans of action designed to foster economic progress and improvements in the welfare and level of living of all the peoples of the American Republics on the basis of joint aid, mutual effort, and common sacrifice;

(2) proposes the development of workable procedures to expand hemispheric trade and to moderate extreme price fluctuations in commodities which are of exceptional importance in the economies of the American Republics, and encourages the development of regional economic cooperation among the American Republics;

(3) supports the development of a more accurate and sympathetic understanding among the peoples of the American Republics through a greater interchange of persons, ideas, techniques, and educational, scientific, and cultural achievements;

(4) supports the strengthening of free democratic trade unions to raise standards of living through improved management-labor relations;

(5) favors the progressive development of common standards with respect to the rights and the responsibilities of private investment with flows across national boundaries within the Western Hemisphere;

(6) supports the consolidation of the public institutions and agencies of inter-American cooperation, insofar as feasible, within the structure of the Organization of American States and the strengthening of the personnel resources and authority of the Organization in order that it may play a role of increasing importance in all aspects of hemispheric cooperation; and

(7) declares that it is prepared to give careful and sympathetic consideration to programs which the President may develop for the purpose of promoting these policies.

AUTHORIZATION

Sec. 2.[3] In order to carry out the purposes of section 1 of this Act, there is hereby authorized to be appropriated to the President

[3] 22 U.S.C. 1943.

not to exceed $680,000,000,[4] which shall remain available until expended, and which the President may use, subject to such further legislative provisions as may be enacted, in addition to other funds available for such purposes, on such terms and conditions as he may specify: *Provided,* That none of the funds made available pursuant to this section shall be used to furnish assistance to any country in Latin America being subjected to economic or diplomatic sanctions by the Organization of American States. The Secretary of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[5] of the House currently informed about plans and programs for the utilization of such funds.

SPECIAL AUTHORIZATION FOR CHILEAN RECONSTRUCTION

Sec. 3.[6] There is hereby authorized to be appropriated to the President not to exceed $100,000,000,[7] which shall remain available until expended, for use, in addition to other funds available for such purposes, in the reconstruction and rehabilitation of Chile on such terms and conditions as the President may specify.

GENERAL PROVISIONS[8]

Sec. 4.[9] (a) Funds appropriated under sections 2 and 3 of this Act may be used for assistance under this Act pursuant to such provisions applicable to the furnishing of such assistance contained in any successor Act to the Mutual Security Act of 1954, as amended, as the President determines to be necessary to carry out the purposes for which such funds are appropriated.

(b) Of the funds appropriated under section 2 of this Act not more than $800,000 shall be available only for assisting in transporting to and settling in Latin America selected immigrants from that portion of the Ryukyuan Archipelago under United States administration.

[4] Sec. 401(b) of the FA Act of 1963 (Public Law 88–205), substituted "$680,000,000" for "$500,000,000". Public Law 87–41, approved May 27, 1961, appropriated $500 million for the Inter-American Social and Economic Cooperation Program to remain available until expended.

[5] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[6] 22 U.S.C. 1944.

[7] Public Law 87–41 appropriated "$100,000,000, to remain available until expended."

[8] Sec. 4 and title "General Provisions" were added by sec. 706 of the FA Act of 1961 (Public Law 87–195; 75 Stat. 724).

[9] 22 U.S.C. 1945.

(8) Implementation of the Enterprise for the Americas Initiative

Executive Order 12757, March 19, 1991, 56 F.R. 12107, 7 U.S.C. 1738 note; as amended by Executive Order 12823, December 3, 1992, 57 F.R. 57645; and by Executive Order 13028, December 3, 1996, 61 F.R. 64589

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 ("ATDA Act"),[1] as amended by Public law 101–624, Public Law 102–237, the Foreign Assistance Act of 1961 ("FAA"), as amended by Public Law 102–549, and section 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 ("Public Law 104–107"),[2] it is hereby ordered as follows:

Section 1. The functions vested in the President by section 603, 604, 611, and 614 of the ATDA Act, sections 703 and 704 of the FAA, and section 571(a)(1) of Public Law 104–107[3] are delegated to the Secretary of the Treasury ("Secretary"), who shall exercise such functions in accordance with recommendations of the National Advisory Council on International Monetary and Financial Policies ("Council"), as established by Executive Order No. 11269 of February 14, 1966; except that, with respect to the eligibility determinations required by section 703(a)(1), (2), (3), and (4) of the FAA, the Secretary of the Treasury shall act in accordance with the recommendations of the Secretary of State.[4] The functions vested in the President by section 571(a)(2), (c) and (d) of Public Law 104–107 are also delegated to the Secretary, who shall exercise such functions in accordance with recommendations of the Council and in consultation with the Secretary of State.[5] The Secretary of State, when necessary, shall report to the Council regarding the need to review the implementation of environmental programs pursuant to section 611 of the ATDA Act.[6]

Sec. 2. (a) For purposes of section 1 of this order only, the membership of the Council shall be expanded to include the following:

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[1] The text in parentheses was amended by sec. 1(a)(1) of Executive Order 12823 (57 F.R. 57645). It formerly read "Act".

[2] Sec. 1(a)(2) of Executive Order 12823 (57 F.R. 57645) struck out "section 1512 of Public Law 101–624," and inserted in lieu thereof "Public law 101–624, Public Law 102–237, and the Foreign Assistance Act of 1961 ("FAA"), as amended by Public Law 102–549". Sec. 1(a) of Executive Order 13028 (61 F.R. 64589) further amended the preamble by striking "and" after "Public Law 102–237" and inserting reference to public Law 104–107

[3] Sec. 1(b)(1) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act and sections 703 and 704 of the FAA". Sec. 1(b) of Executive Order subsequently amended this sentence by striking out "and" after "ATDA Act", inserting in lieu thereof a comma, and adding ", and section 571(a)(1) of Public Law 104–107".

[4] Sec. 1(b)(2) of Executive Order 12823 (57 F.R. 57645) inserted "; except that, with respect to the eligibility determinations required by section 703(a)(1), (2), (3), and (4) of the FAA, the Secretary of the Treasury shall act in accordance with the recommendations of the Secretary of State" after "1966".

[5] Sec. 1(b)(3) of Executive Order 13028 (61 F.R. 64589) added this sentence.

[6] Sec. 1(b)(3) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act".

the Secretary of Agriculture, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers,the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency.

(b) Whenever matters being considered by the Council may be of interest to an agency not represented on the Council, the chairperson may invite a representative of such agency to participate in meetings and deliberations of the Council.

(c) In the event of a disagreement among agencies represented on the Council, the Secretary shall refer the issue to the appropriate Cabinet-level body designated by the President.

Sec. 3. (a) The functions vested in the President by section 607 of the ATDA Act[7] are delegated to the Secretary of State, in consultation with the Department of the Treasury, the Department of Agriculture, the Department of Commerce, the Council on Environmental Quality, the Environmental Protection Agency, the Agency for International Development, and any other agency determined by the Secretary of State to have an interest in an environmental framework agreement.

(b) Pursuant to section 610(c) of the ATDA Act and section 709(1) of the FAA,[8] the Enterprise for the Americas Board[9] shall also advise the Secretary of State on the negotiations of the environmental framework agreements and the Americas Framework Agreements.[10]

(c) The Secretary of State shall ensure that the elements and requirements for the Administering Bodies established in section 607(c) of the ATDA Act and section 708(c) of the FAA[11] shall be included in the environmental framework agreements and the Americas Framework Agreements.[12]

Sec. 4. (a) The six[13] U.S. Government members of the Enterprise for the Americas Board[14] ("Board") established by section 610 of the ATDA Act[15] shall be representatives from the Department of State, the Department of the Treasury, the Department of Agriculture,[16] the Environmental Protection Agency, the Agency for International Development, and the Inter-American Foundation.

(b) The Department of Commerce,[17] and other appropriate agencies may each send representatives to the meetings of the Board,

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[7] Sec. 1(c) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act".

[8] Sec. 1(d)(1) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act and section 709(1) of the FAA".

[9] Sec. 1(d)(2) of Executive Order 12823 (57 F.R. 57645) struck out "the Environment for the Americas Board" and inserted in lieu thereof "the Enterprise for the Americas Board".

[10] Sec. 1(d)(3) of Executive Order 12823 (57 F.R. 57645) inserted "and the Americas Framework Agreements" after "agreements".

[11] Sec. 1(e)(1) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act and section 708(c) of the FAA".

[12] Sec. 1(e)(2) of Executive Order 12823 (57 F.R. 57645) inserted "and the Americas Framework Agreements" after "agreements".

[13] Sec. 1(f)(1) of Executive Order 12823 (57 F.R. 57645) struck out "five" and inserted in lieu thereof "six".

[14] Sec. 1(f)(2) of Executive Order 12823 (57 F.R. 57645) struck out"Environment for the Americas Board" and inserted in lieu thereof "Enterprise for the Americas Board".

[15] Sec. 1(f)(3) of Executive Order 12823 (57 F.R. 57645) struck out"Act" and inserted in lieu thereof "ATDA Act".

[16] Sec. 1(f)(4) of Executive Order 12823 (57 F.R. 57646) inserted "the Department of Agriculture,".

[17] Sec. 1(g) of Executive Order 12823 (57 F.R. 57646) struck out "the Department of Agriculture, " here.

and such representatives may participate in the activities of the Board.

(c) The representative from the Department of the Treasury shall be the chairperson of the Board. The representative from the Department of State shall be the vice chairman of the Board. The representative from the Environmental Protection Agency shall serve as secretary of the Board.

(1) The chairperson shall be responsible for presiding over the meetings of the Board, ensuring that the views of all other participants are taken into account, and coordinating with other appropriate agencies in assisting the Board in its review of the fiscal audits conducted pursuant to section 607(c)(4) of the ATDA Act and section 708(c)(3)(C) of the FAA.[18]

(2) The vice chairperson shall be responsible for serving as liaison between the Board and local governments, local nongovernmental organizations, and the local Administering Bodies in Latin America and the Caribbean, and for coordinating the international activities related to programs funded under the ATDA Act and Part IV of the FAA.[19]

(3) The secretary of the Board shall be responsible for coordinating the preparation of materials for Board discussion, including the technical reviews of the annual programs and reports required to be submitted to the Board under section 607 (c)(5) and (c)(6) of the ATDA Act and section 708(c)(3) (E) and (F) of the FAA,[20] and for preparing official minutes of Board discussions.

(d) The five[21] private nongovernmental organization members of the Board shall be chosen by the President.

Sec. 5. No new agreement under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended,[22] and no new credit agreement under the Food for Progress Act of 1985, as amended,[23] shall be entered into with any country that is in default with respect to the payment of principal or interest on any obligation issued pursuant to section 604 of the ATDA Act[24] unless such country meets its obligations or unless the President so authorizes.

Sec. 6.[25] Any references in this order to section 571, or any subsection of section 571, of Public Law 104–107 shall be deemed to include references to any hereinafter-enacted provision of law that is the same or substantially the same as such section 571 or any subsection thereof.

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[18] Sec. 1(h) of Executive Order 12823 (57 F.R. 57646) struck out "Act" and inserted in lieu thereof "ATDA Act and section 708(c)(3)(C) of the FAA".

[19] Sec. 1(i) of Executive Order 12823 (57 F.R. 57646) struck out "Act" and inserted in lieu thereof "ATDA Act and Part IV of the FAA".

[20] Sec. 1(j) of Executive Order 12823 (57 F.R. 57646) struck out "Act" and inserted in lieu thereof "ATDA Act and section 708(c)(3) (E) and (F) of the FAA".

[21] Sec. 1(k) of Executive Order 12823 (57 F.R. 57646) struck out "four" and inserted in lieu thereof "five".

[22] Sec. 1(l)(1) of Executive Order 12823 (57 F.R. 57646) struck out "by section 1512 of Public Law 101–624" before the comma.

[23] Sec. 1(l)(2) of Executive Order 12823 (57 F.R. 57646) inserted ", as amended," after "1985".

[24] Sec. 1(l)(3) of Executive Order 12823 (57 F.R. 57646) struck out "section 604 of the Act" and inserted in lieu thereof "section 604 of the ATDA Act".

[25] Added by sec. 1(d) of Executive Order 13028 (61 F.R. 64589).

Sec. 7.[26] This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

[26] Originally issued as sec. 6; redesignated as sec. 7 by sec. 1(c) of Executive Order 13028 (61 F.R. 64589).

e. Assistance to the Middle East

(1) Middle East Peace Facilitation Act of 1995

Title VI of Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996; enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996

TITLE VI—MIDDLE EAST PEACE FACILITATION ACT OF 1995

SHORT TITLE

SEC. 601. This title may be cited as the "Middle East Peace Facilitation Act of 1995".

FINDINGS

SEC. 602. The Congress finds that—

(1) the Palestine Liberation Organization (hereafter the "P.L.O.") has recognized the State of Israel's right to exist in peace and security, accepted United Nations Security Council Resolutions 242 and 338, committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability, and assumed responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the P.L.O. as the representative of the Palestinian people;

(3) Israel and the P.L.O. signed a Declaration of Principles on Interim Self-Government Arrangements (hereafter the "Declaration of Principles") on September 13, 1993 at the White House;

(4) Israel and the P.L.O. signed an Agreement on the Gaza Strip and the Jericho Area (hereafter the "Gaza-Jericho Agreement") on May 4, 1994 which established a Palestinian Authority for the Gaza and Jericho areas;

(5) Israel and the P.L.O. signed an Agreement on Preparatory Transfer of Powers and Responsibilities (hereafter the "Early Empowerment Agreement") on August 29, 1994 which provided for the transfer to the Palestinian Authority of certain powers and responsibilities in the West Bank outside of the Jericho Area;

(6) under the terms of the Israeli-Palestinian Interim Agreement on the West Bank and Gaza (hereafter the "Interim Agreement) signed on September 28, 1995, the Declaration of Principles, the Gaza-Jericho Agreement and the Early Empowerment Agreement, the powers and responsibilities of the Palestinian Authority are to be assumed by an elected Pal-

estinian Council with jurisdiction in the West Bank and Gaza Strip in accordance with the Interim Agreement;

(7) permanent status negotiations relating to the West Bank and Gaza Strip are scheduled to begin by May 1996;

(8) the Congress has, since the conclusion of the Declaration of Principles and the P.L.O.'s renunciation of terrorism, provided authorities to the President to suspend certain statutory restrictions relating to the P.L.O., subject to Presidential certifications that the P.L.O. has continued to abide by commitments made in and in connection with or resulting from the good faith implementation of, the Declaration of Principles;

(9) the P.L.O. commitments relevant to Presidential certifications have included commitments to renounce and condemn terrorism, to submit to the Palestinian National Council for former approval the necessary changes to those articles of the Palestinian Covenant which call for Israel's destruction, and to prevent acts of terrorism and hostilities against Israel; and

(10) the United States is resolute in its determination to ensure that in providing assistance to Palestinians living under the jurisdiction of the Palestinian Authority or elsewhere, the beneficiaries of such assistance shall be held to the same standard of financial accountability and management control as any other recipient of United States assistance.

SENSE OF CONGRESS

SEC. 603. It is the sense of the Congress that the P.L.O. must do far more to demonstrate an irrevocable denunciation of terrorism and ensure a peaceful settlement of the Middle East dispute, and in particular it must—

(1) submit to the Palestinian National Council for formal approval the necessary changes to those articles of the Palestinian National Covenant which call for Israel's destruction;

(2) make greater efforts to pre-empt acts of terror, discipline violators and contribute to stemming the violence that has resulted in the deaths of over 140 Israeli and United States citizens since the signing of the Declaration of Principles;

(3) prohibit participation in its activities and in the Palestinian Authority and its successors by any groups or individuals which continue to promote and commit acts of terrorism;

(4) cease all anti-Israel rhetoric, which potentially undermines the peace process;

(5) confiscate all unlicensed weapons;

(6) transfer and cooperate in transfer proceedings relating to any person accused by Israel to acts of terrorism; and

(7) respect civil liberties, human rights and democratic norms.

AUTHORITY TO SUSPEND CERTAIN PROVISIONS

SEC. 604. (a) IN GENERAL.—Subject to subsection (b), beginning on the date of enactment of this Act and for eighteen months thereafter, the President may suspend for a period of not more than 6 months at a time any provision of law specified in subsection (d).

Any such suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1)[1] CONSULTATIONS.—Prior to each exercise of the authority provided in subsection (a) or certification pursuant to subsection (c), the President shall consult with the relevant congressional committees. The President may not exercise that authority or make such certification until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority;

(B) the P.L.O., the Palestinian Authority, and successor entities are complying with all the commitments described in paragraph (4); and

(C) funds provided pursuant to the exercise of this authority and the authorities under section 583(a) of Public Law 103–236 and section 3(a) of Public Law 103–125 have been used for the purposes for which they were intended.

(3) REQUIREMENT FOR CONTINUING P.L.O. COMPLIANCE.—(A) The President shall ensure that P.L.O. performance is continuously monitored and if the President at any time determines that the P.L.O. has not continued to comply with all the commitments described in paragraph (4), he shall so notify the relevant congressional committees and any suspension under subsection (a) of a provision of law specified in subsection (d) shall cease to be effective.

(B) Beginning six months after the date of enactment of this Act, if the President on the basis of the continuous monitoring of the P.L.O.'s performance determines that the P.L.O. is not complying with the requirements described in subsection (c), he shall so notify the relevant congressional committees and no assistance shall be provided pursuant to the exercise by the President of the authority provided by subsection (a) until such time as the President makes the certification provided for in subsection (c).

(4) P.L.O. COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2)(B) and (3)(A) are the commitments made by the P.L.O—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

[1] Responsibilities delegated to the President in para. (1) and (5) of subsec. (b) were redelegated by the President to the Secretary of State in a Presidential memorandum of February 29, 1996 (61 F.R. 9889).

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations and discipline violators;

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of the Declaration of Principles, including good faith implementation of subsequent agreements with Israel, with particular attention to the objective of preventing terrorism, as reflected in the provisions of the Interim Agreement concerning—

(i) prevention of acts of terrorism and legal measures against terrorists, including the arrest and prosecution of individuals suspected of perpetrating acts of violence and terror;

(ii) abstention from and prevention of incitement, including hostile propaganda;

(iii) operation of armed forces other than the Palestinian Police;

(iv) possession, manufacture, sale, acquisition or importation of weapons;

(v) employment of police who have been convicted of serious crimes or have been found to be actively involved in terrorist activities subsequent to their employment;

(vi) transfers to Israel of individuals suspected of, charged with, or convicted of an offense that falls within Israeli criminal jurisdiction;

(vii) cooperation with the government of Israel in criminal matters, including cooperation in the conduct of investigations; and

(viii) exercise of powers and responsibilities under the agreement with due regard to internationally accepted norms and principles of human rights and the rule of law.

(5)[1] POLICY JUSTIFICATION.—As part of the President's written policy justification to be submitted to the relevant Congressional Committees pursuant to paragraph (1), the President will report on—

(A) the manner in which the P.L.O. has complied with the commitments specified in paragraph (4), including responses to individual acts of terrorism and violence, actions to discipline perpetrators of terror and violence, and actions to preempt acts of terror and violence;

(B) the extent to which the P.L.O. has fulfilled the requirements specified in subsection (c);

(C) actions that the P.L.O. has taken with regard to the Arab League boycott of Israel;

(D) the status and activities of the P.L.O. office in the United States;

(E) all United States assistance which benefits, directly or indirectly, the projects, programs, or activities of the Palestinian Authority in Gaza, Jericho, or any other area it may control, since September 13, 1993, including—

(i) the obligation and disbursal of such assistance, by project, activity, and date, as well as by prime contractor and all subcontractors;

(ii) the organizations or individuals responsible for the receipt and obligation of such assistance;

(iii) the intended beneficiaries of such assistance; and

(iv) the amount of international donor funds that benefit the P.L.O. or the Palestinian Authority in Gaza, Jericho, or any other area the P.L.O. or the Palestinian Authority may control, and to which the United States is a contributor; and

(F) statements by senior officials of the P.L.O., the Palestinian Authority, and successor entities that question the right of Israel to exist or urge armed conflict with or terrorism against Israel or its citizens, including an assessment of the degree to which such statements reflect official policy of the P.L.O., the Palestinian Authority, or successor entities.

(c) REQUIREMENT FOR CONTINUED PROVISION OF ASSISTANCE.—Six months after the enactment of this Act, United States assistance shall not be provided pursuant to the exercise by the President of the authority provided by subsection (a), unless and until the President determines and so certifies to the Congress that—

(1) if the Palestinian Council has been elected and assumed its responsibilities, it has, within 2 months, effectively disavowed and thereby nullified the articles of the Palestine National Covenant which call for Israel's destruction, unless the necessary changes to the Covenant have already been approved by the Palestine National Council;

(2) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to establish the necessary enforcement institutions; including laws, police, and a judicial system, for apprehending, transferring, prosecuting, convicting, and imprisoning terrorists;

(3) the P.L.O., has limited participation in the Palestinian Authority and its successors to individuals and groups that neither engage in nor practice terrorism or violence in the implementation of their political goals;

(4) the P.L.O., the Palestinian Authority, and successor entities have not provided any financial or material assistance or training to any group, whether or not affiliated with the P.L.O., to carry out actions inconsistent with the Declaration of Principles, particularly acts of terrorism against Israel;

(5) the P.L.O., the Palestinian Authority, or successor entities have cooperated in good faith with Israeli authorities in—

(A) the preemption of acts of terrorism;

(B) the apprehension, trial, and punishment of individuals who have planned or committed terrorist acts subject to the jurisdiction of the Palestinian Authority or any successor entity; and

(C) the apprehension of and transfer to Israeli authorities of individuals suspected of, charged with, or convicted of, planning or committing terrorist acts subject to Israeli jurisdiction in accordance with the specific provisions of the Interim Agreement;

(6) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to enact and implement laws requiring the disarming of civilians not specifically licensed to possess or carry weapons;

(7) the P.L.O., the Palestinian Authority, and successor entities have not funded, either partially or wholly, or have ceased funding, either partially or wholly, any office, or other presence of the Palestinian Authority in Jerusalem unless established by specific agreement between Israel and the P.L.O., the Palestinian Authority, or successor entities;

(8) the P.L.O., the Palestinian Authority, and successor entities are cooperating fully with the Government of the United States on the provision of information on United States nationals known to have been held at any time by the P.L.O. or factions thereof; and

(9) the P.L.O., the Palestinian Authority, and successor entities have not, without the agreement of the Government of Israel, taken any steps that will change the status of Jerusalem or the West Bank and Gaza Strip, pending the outcome of the permanent status negotiations.

(d)[2] PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

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[2] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in the Middle East Peace Facilitation Act of 1994 (part E of Public Law 103–236) and in this Act.

The President issued certifications, as provided for in the 1993 and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

New authority to waive certain provisions was continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2386); see secs. 539(c) and (d), 552, 555, and 566, in *Legislation on Foreign Relations Through 1997*, vol. I–A.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998, pursuant to sec. 539(d) of Public Law 105–118 (Presidential Determination No. 98–8; 62 F.R. 66255).

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)[3] as it applies with respect to the P.L.O. or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, fiscal years 1984 and 1985 (22 U.S.C. 287e note)[4] as it applies with respect to the P.L.O. or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, fiscal years 1988 and 1989 (22 U.S.C. 5202).[5]

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286W)[6] as it applies on the granting to the P.L.O. of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(e) DEFINITIONS.—As used in this title:

(1) RELEVANT CONGRESSIONAL COMMITTEES.—The term "relevant congressional committees" mean—

(A) the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) UNITED STATES ASSISTANCE.—The term "United States assistance" means any form of grant, loan, loan guarantee, credit, insurance, in kind assistance, or any other form of assistance.

TRANSITION PROVISION

SEC. 605. (a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking "November 1, 1995" and insert "January 1, 1996".[7]

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) prior to November 15, 1995, the written policy justification dated June 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, and the consultations associated with such policy justification, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

REPORTING REQUIREMENT

SEC. 606. Section 804(b) of the P.L.O. Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) is amended—[8]

(1) in the matter preceding paragraph (1), by striking "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994"

[3] For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.
[4] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.
[5] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.
[6] For text, see *Legislation on Foreign Relations Through 1997*, vol. III.
[7] For amended text, see page 245.
[8] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

and inserting "section 604(b)(1) of the Middle East Peace Facilitation Act of 1995"; and

(2) in paragraph (1), by striking "section (4)(a) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)" and inserting "section 604(b)(4) of the Middle East Peace Facilitation Act of 1995".

(2) Middle East Peace Facilitation Act of 1994

Title V, Part E of Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 488, approved April 23, 1994; amended by Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 104–17 (109 Stat. 191), approved July 2, 1995; Public Law 104–22 (109 Stat. 260), approved August 14, 1995; Public Law 104–30 (109 Stat. 277), approved September 30, 1995; Public Law 104–47 (109 Stat. 423), approved November 13, 1995; Public Law 104–89 (109 Stat. 960), approved January 4, 1996; and by Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996

PART E—MIDDLE EAST PEACE FACILITATION

SEC. 581. SHORT TITLE.

This part may be cited as the "Middle East Peace Facilitation Act of 1994".

SEC. 582. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel's right to exist in peace and security; accepted United Nations Security Council Resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

SEC. 583. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), beginning July 1, 1994, the President may suspend for a period of not more than 6 months any provision of law specified in subsection (c). The President may continue the suspension for a period or periods of not

more than 6 months until March 31, 1996,[1] if, before each such period, the President satisfies the requirements of subsection (b). Any suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1)[2] CONSULTATION.—Prior to each exercise of the authority provided in subsection (a), the President shall consult with the relevant congressional committees. The President may not exercise that authority until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority; and

(B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).

(3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (c) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).

(4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators;

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[1] Sec. 1 of Public Law 104–17 (109 Stat. 191) extended this authority from July 1, 1995 to August 15, 1995. Further extensions were provided in Public Law 104–22 (109 Stat. 260)—extending to October 1, 1995; Public Law 104–30 (109 Stat. 277)—extending to November 1, 1995; Public Law 104–47 (109 Stat. 423)—extending to December 31, 1995; and Public Law 104–89 (109 Stat. 960)—extending to March 31, 1996. The latter extensions further provided the following, with appropriate dates adjusted:

"(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) prior to January 10, 1996, the written policy justification dated December 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.".

Sec. 605(a) Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 760), struck out "November 1, 1995" and inserted in lieu thereof "January 1, 1996", an amendment already similarly provided in Public Law 104–47 and further amended by Public Law 104–89.

[2] In a July 26, 1994, memorandum the President delegated responsibility of fulfilling functions in subsec. (b)(1) and (b)(6) to the Secretary of State.

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

(5) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—

(A) renouncing the Arab League boycott of Israel;

(B) urging the nations of the Arab League to end the Arab League boycott of Israel;

(C) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel; [3]

(D) condemning individual acts of terrorism and violence; and [3]

(E) [3] amending its National Covenant to eliminate all references calling for the destruction of Israel.

(6) REPORTING REQUIREMENT.—As part of the President's written policy justification referred to in paragraph (1), the President will report on the PLO's response to individual acts of terrorism and violence, as well as its actions concerning the Arab League boycott of Israel as enumerated in paragraph (5) and on the status of the PLO office in the United States as enumerated in subsection (c)(3).

(c) [4] PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

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[3] Sec. 565A of Public Law 103–306 (108 Stat. 1650) struck out "and" at the end of subpar. (C); struck out the period at the end of subpar. (D) and inserted in lieu thereof "; and"; and added subpar. (E).

[4] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act and the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued such a certification in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)[5] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, Fiscal years 1984 and 1985 (22 U.S.C. 287e note)[6] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, Fiscal years 1988 and 1989 (22 U.S.C. 5202).[7]

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w)[8] as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(d) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term "relevant congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs, and the Committee on Appropriations of the House of Representatives;[9] and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

New authority to waive certain provisions was continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2386); see secs. 539(c) and (d), 552, 555, and 566.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998, pursuant to sec. 539(d) of Public Law 105–118 (Presidential Determination No. 98–8; 62 F.R. 66255).

[5] For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[6] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[7] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[8] For text, see *Legislation on Foreign Relations Through 1997*, vol. III.

[9] Sec. 1(a)(2) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(3) Middle East Peace Facilitation Act of 1993

Public Law 103–125 [S. 1487], 107 Stat. 1309, approved October 28, 1993; amended by Public Law 103–166 [S. 1667], 107 Stat. 1978, approved December 2, 1993

AN ACT Entitled the "Middle East Peace Facilitation Act of 1993".

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle East Peace Facilitation Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel's right to exist in peace and security; accepted United Nations Security Council resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

SEC. 3. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), the President may suspend any provision of law specified in subsection (d). Any such suspension shall cease to be effective on July 1, 1994,[1] or such earlier date as the President may specify.

(b) CONDITIONS.—

(1) CONSULTATION.—Before exercising the authority provided in subsection (a), the President shall consult with the relevant congressional committees.

[1] Sec. 1 of Public Law 103–166 (107 Stat. 1978) struck out "January 1" and inserted in lieu thereof "July 1".

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees that—

(A) it is in the national interest of the United States to exercise such authority; and

(B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).

(3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (d) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).

(4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel;

(B) in its letter of September 9, 1993, to the Foreign Minister of Norway; and

(C) in, and resulting from the implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

(c) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—

(1) renouncing the Arab League boycott of Israel;

(2) urging the nations of the Arab League to end the Arab League boycott of Israel; and

(3) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel.

(d)[2] PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)[3] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note)[4] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 5202).[5]

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[2] In memoranda for the Secretary of State, the President has certified that it is in the national interests to suspend the application of these provisions of law. Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777) suspended the application until July 1, 1994; Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607) suspended the application until January 1, 1995 (pursuant to Public Law 103–236). Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673) suspended the application until July 1, 1995 (pursuant to Public Law 103–236).

[3] For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[4] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[5] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w)[6] as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(e) RELATION TO OTHER AUTHORITIES.—This section supersedes section 578 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87).

(f) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term "relevant congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs, and the Committee on Appropriations of the House of Representatives;[7] and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

[6] For text, see *Legislation on Foreign Relations Through 1997*, vol. III.

[7] Sec. 1(a)(2) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(4) Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991

Public Law 102–45 [H.R. 2122], 105 Stat. 247, approved May 17, 1991

AN ACT To authorize emergency humanitarian assistance for fiscal year 1991 for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991".

SEC. 2. EMERGENCY ASSISTANCE FOR REFUGEES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated as supplemental appropriations for fiscal year 1991 for emergency humanitarian assistance for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict, and to reimburse appropriations accounts from which such assistance was provided before the date of the enactment of this Act—

(1) up to $150,000,000 for "International Disaster Assistance" under chapter 9 of part I of the Foreign Assistance Act of 1961; and

(2) up to $200,000,000 for "Migration and Refugee Assistance" for the Department of State.

(b) EMERGENCY MIGRATION AND REFUGEE ASSISTANCE.—For purposes of section 2(c)(2) of the Migration and Refugee Assistance Act of 1962, the limitation on appropriations for the "United States Emergency Refugee and Migration Assistance Fund" for fiscal year 1991 shall be deemed to be $75,000,000.

(c) CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated as supplemental appropriations for fiscal year 1991 for peacekeeping activities in the Persian Gulf region and to reimburse accounts for which such activities have been funded before the date of enactment of this Act up to $50,000,000 for "Contributions to International Peacekeeping Activities" for the Department of State.

(d) OTHER AUTHORITIES.—

(1) INTERNATIONAL DISASTER ASSISTANCE.—Amounts obligated for fiscal year 1991 under the authority of section 492(b) of the Foreign Assistance Act of 1961 to provide international disaster assistance in connection with the Persian Gulf crisis shall not be counted against the ceiling limitation of such section.

(2) SPECIAL AUTHORITY.—The value of any defense articles, defense services, and military education and training authorized to be drawndown by the President on April 19, 1991,

under the authority of section 506(a)(2)(B) of the Foreign Assistance Act of 1961 shall not be counted against the ceiling limitation of such section.

(3) AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954 (PUBLIC LAW 480).—Notwithstanding subsections (b) and (c) of section 412 of the Agricultural Trade Development and Assistance Act of 1954 or any other provision of law, funds made available for any title of such Act by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991, may be used for purposes of title II of the Agricultural Trade Development and Assistance Act of 1954.

(d) WAIVER OF COUNTRY SPECIFIC RESTRICTIONS.—Assistance may be provided under this section notwithstanding any provision of law which restricts assistance to particular countries.

(e) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under this section are authorized to remain available until expended.

(f) SOURCES OF FUNDS.—Notwithstanding any other provision of law, amounts authorized to be appropriated under this section are authorized to be appropriated from the Defense Cooperation Account of the United States Treasury, the Persian Gulf Regional Defense Fund of the United States Treasury, or the General Fund of the Treasury.

(g) DESIGNATION AS EMERGENCY FOR BUDGETARY PURPOSES.—Funds authorized to be appropriated under this section may be designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) Emergency Supplemental Assistance for Israel Act of 1991

Public Law 102–21 [H.R. 1284], 105 Stat. 70, approved March 28, 1991

AN ACT To authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Supplemental Assistance for Israel Act of 1991".

SEC. 2. EMERGENCY ASSISTANCE FOR ISRAEL.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated as emergency supplemental appropriations for fiscal year 1991 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) $650,000,000 for additional costs resulting from the conflict in the Persian Gulf region.

(b) CASH GRANT FOR ISRAEL.—Funds appropriated pursuant to the authorization contained in subsection (a) shall be available only for assistance for Israel. Such assistance shall be provided on a grant basis as a cash transfer. Funds provided to Israel under this section may be used by Israel for incremental costs associated with the conflict in the Persian Gulf region without regard to section 531(e) of the Foreign Assistance Act of 1961.

(c) DESIGNATION AS EMERGENCY FOR BUDGETARY PURPOSES.—Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(6) Jordan Supplemental Economic Assistance Authorization Act of 1985

Partial text of Public Law 99–88 [Supplemental Appropriations Act, 1985; H.R. 2577], 99 Stat. 376, approved August 15, 1985

AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

* * * * * * *

TITLE IV—AUTHORIZATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR JORDAN

SHORT TITLE

SEC. 401. This title may be cited as the "Jordan Supplemental Economic Assistance Authorization Act of 1985".

ECONOMIC SUPPORT FUND

SEC. 402. (a)(1) In addition to funds otherwise available for such purposes for such fiscal year, there are authorized to be appropriated to the President to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $250,000,000 for the fiscal year 1985, which amount shall be available only for Jordan.

(2) Of the funds authorized to be appropriated by paragraph (1)—

(A) for the fiscal year 1985, $50,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance;

(B) for the fiscal year 1986, $50,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance; and

(C) for the fiscal year 1987, $60,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance.

(b) Amounts appropriated to carry out this section are authorized to remain available until September 30, 1987.[1]

[1] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99–591; 100 Stat. 3341), provided:

"Economic support fund: * * * *Provided further,* That up to $15,000,000 shall be made available for Jordan in addition to funds otherwise made available by this paragraph and allocated to Jordan: * * *".

POLICY

SEC. 403. (a) SENSE OF CONGRESS.—It is the sense of Congress that no foreign military sales financing authorized by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(b) CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems or other new advanced military weapons, must be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(7) Lebanon Emergency Assistance Act of 1983 [1]

Public Law 98–43 [S. 639], 97 Stat. 214, approved June 27, 1983

AN ACT To authorize supplemental assistance to aid Lebanon in rebuilding its economy and armed forces, and for other purposes.

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

SHORT TITLE

Section 1. This Act may be cited as the "Lebanon Emergency Assistance Act of 1983".

ECONOMIC SUPPORT FUND

Sec. 2. (a) It is hereby determined that the national interests of the United States would be served by the authorization and appropriation of additional funds for economic assistance for Lebanon in order to promote the economic and political stability of that country and to support the international effort to strengthen a sovereign and independent Lebanon.

(b) Accordingly, in addition to amounts otherwise authorized to be appropriated for the fiscal year 1983 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated $150,000,000 to carry out such provisions with respect to Lebanon.[2]

(c) Amounts authorized by this section may be appropriated in an appropriation Act for any fiscal year (including a continuing resolution) and shall continue to be available beyond the fiscal year notwithstanding any provision of that appropriation Act to the contrary.

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[1] See also the Multinational Force in Lebanon Resolution, *Legislation on Foreign Relations Through 1997*, vol. II.

[2] The Supplemental Appropriations Act, 1983 (Public Law 98–63; 97 Stat. 317), provided the following:

"ECONOMIC SUPPORT FUND

"For an additional amount for the 'Economic Support Fund', $301,250,000: *Provided,* That $150,000,000 of this amount shall be available only for Lebanon, to remain available until expended.".

Subsequently, title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (Further Continuing Appropriations Act, 1986, Public Law 99–190; 99 Stat. 1299), provided the following transfer of funds appropriated in the Supplemental Appropriations Act, 1983 (Public Law 98–63):

"Transfer of funds: Of the unobligated funds remaining from funds appropriated for the 'Economic support fund' for Lebanon in Public Law 98–63, $22,850,000, shall be transferred as follows: (1) $12,500,000 to the 'Child Survival Funds,' (2) $5,350,000 to Internal Organizations and Programs for the United Nations Children's Fund, and (3) to 'International Narcotics Control: *Provided,* That except for such transfers,' amounts remaining unobligated as of September 30, 1985, from funds appropriated for the 'Economic Support Fund' for Lebanon in Public Law 98–63 shall, notwithstanding sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, be made available only for Lebanon: *Provided further,* That, to the extent that these funds cannot be used to provide assistance for Lebanon, they shall revert to the Treasury as miscellaneous receipts.".

MILITARY SALES AND RELATED PROGRAMS

Sec. 3. (a) In order to support the rebuilding of the armed forces of Lebanon, the Congress finds that the national security interests of the United States would be served by the authorization and appropriation of additional funds to provide training for the Lebanese armed forces and by the authorization of additional foreign military sales guaranties to finance procurements by Lebanon of defense articles and defense services for its security requirements.

(b) In addition to amounts otherwise made available for the fiscal year 1983 to carry out the provisions of chapter 5 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated for the fiscal year 1983 $1,000,000 to carry out such provisions with respect to Lebanon.[3]

(c) In addition to amounts otherwise made available for the fiscal year 1983 for loan guaranties under section 24(a) of the Arms Export Control Act, $100,000,000 of loan principal are authorized to be so guaranteed during such fiscal year for Lebanon.[3]

UNITED STATES ARMED FORCES IN LEBANON

Sec. 4. (a) The President shall obtain statutory authorization from the Congress with respect to any substantial expansion in the number or role in Lebanon of United States Armed Forces, including any introduction of United States Armed Forces into Lebanon in conjunction with agreements providing for the withdrawal of all foreign troops from Lebanon and for the creation of a new multinational peace-keeping force in Lebanon.

(b) Nothing in this section is intended to modify, limit, or suspend any of the standards and procedures prescribed by the War Powers Resolution of 1973.

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[3] Chapter V of the Supplemental Appropriations Act, 1983 (Public Law 98–63; 97 Stat. 318) provided the following:

"FOREIGN MILITARY SALES CREDIT

"During fiscal year 1983, for an additional amount for Foreign Military Credit Sales, for commitments to guarantee loans, $293,500,000 of contingent liability for loan principal: *Provided*, That of this sum $100,000,000 shall be available only for assistance to Lebanon.

"INTERNATIONAL MILITARY EDUCATION AND TRAINING

"For an additional amount for International military education and training, $1,000,000.".

(8) Special International Security Assistance Act of 1979

Partial text of Public Law 96–35 [S. 1007], 93 Stat. 89, approved July 20, 1979, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

AN ACT To authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel, and for other purposes.

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

SHORT TITLE

Section 1. This Act may be cited as the "Special International Security Assistance Act of 1979".

STATEMENT OF POLICY AND FINDINGS

Sec. 2.[1] (a) It is the policy of the United States to support the peace treaty concluded between the Government of Egypt and the Government of Israel on March 26, 1979. This treaty is a significant step toward a full and comprehensive peace in the Middle East. The Congress urges the President to continue to exert every effort to bring about a comprehensive peace and to seek an end by all parties to the violence which could jeopardize this peace.

(b) The peace treaty between Egypt and Israel having been ratified, the Congress finds that the national interests of the United States are served—

(1) by authorizing the President to construct air bases in Israel to replace the Israeli air bases on the Sinai peninsula that are to be evacuated;

(2) by authorizing additional funds to finance procurements by Egypt and Israel through the fiscal year 1982 of defense articles and defense services for their respective security requirements; and

(3) by authorizing additional funds for economic assistance for Egypt in order to promote the economic stability and development of that country and to support the peace process in the Middle East.

(c) The authorities contained in this Act to implement certain arrangements in support of the peace treaty between Egypt and Israel do not signify approval by the Congress of any other agreement, understanding, or commitment made by the executive branch.

[1] 22 U.S.C. 3401.

CONSTRUCTION OF AIR BASES IN ISRAEL

Sec. 3.[2] * * *

SUPPLEMENTAL AUTHORIZATION OF FOREIGN MILITARY SALES LOAN GUARANTIES FOR EGYPT AND ISRAEL

Sec. 4.[3] (a) The Congress finds that the legitimate defense interests of Israel and Egypt require a one time extraordinary assistance package due to Israel's phased withdrawal from the Sinai and Egypt's shift from reliance on Soviet weaponry. The authorizations contained in this section do not, however, constitute Congressional approval of the sale of any particular weapons system to either country. These sales will be reviewed under the normal procedures set forth in section 36(b) of the Arms Export Control Act.

(b) In addition to amounts authorized to be appropriated for the fiscal year 1979 by section 31(a) of the Arms Export Control Act, there is authorized to be appropriated to the President to carry out that Act $370,000,000 for the fiscal year 1979.[4]

(c) Funds made available pursuant to subsection (b) of this section may be used only for guaranties for Egypt and Israel pursuant to section 24(a) of the Arms Export Control Act. The principal amount of loans guaranteed with such funds may not exceed $3,700,000,000 of which $2,200,000,000 shall be available only for Israel and $1,500,000,000 shall be available only for Egypt. The principal amount of such guaranteed loans shall be in addition to the aggregate ceiling authorized for the fiscal year 1979 by section 31(b) of the Arms Export Control Act.

(d) Loans guaranteed with funds made available pursuant to subsection (b) of this section shall be on terms calling for repayment within a period of not less than thirty years, including an initial grace period of ten years on repayment of principal.

(e)(1) The Congress finds that the Governments of Israel and Egypt each have an enormous external debt burden which may be made more difficult by virtue of the financing authorized by this section. The Congress further finds that, as a consequence of the impact of the debt burdens incurred by Israel and Egypt under such financing, it may become necessary in future years to modify the terms of the loans guaranteed with funds made available pursuant to this section.

(2)[5] * * * [Repealed—1981]

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[2] Sec. 3 amended the Foreign Assistance Act of 1961 by adding a new ch. 7 ("Air Base Construction in Israel") to part II of that Act.

[3] 22 U.S.C. 3402.

[4] Supplemental Appropriations Act, 1979 (Public Law 96–38; 93 Stat. 103) stated: "For an additional amount for 'Foreign military credit sales' for Egypt and Israel, $370,000,000.".

[5] Par. (2), which had required an annual report by the President concerning the economic conditions prevailing in Israel and Egypt which may affect their respective ability to meet their obligations to make payments under the financing authorized in this section, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). A similar report was required by sec. 723 of Public Law 97–113; see *Legislation on Foreign Relations Through 1997*, vol. I–A).

SUPPLEMENTAL AUTHORIZATION OF ECONOMIC SUPPORT FOR EGYPT

Sec. 5.[6] There is authorized to be appropriated to the President to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $300,000,000 for the fiscal year 1979 for Egypt, in addition to amounts otherwise authorized to be appropriated for such chapter for the fiscal year 1979.[7] The amounts appropriated pursuant to this section may be made available until expended.

TRANSFER OF FACILITIES OF THE SINAI FIELD MISSION TO EGYPT

Sec. 6.[8] The President is authorized to transfer to Egypt, on such terms and conditions as he may determine, such of the facilities and related property of the United States Sinai Field Mission as he may determine, upon the termination of the activities of the Sinai Field Mission in accordance with the terms of the peace treaty between Egypt and Israel.

CONTRIBUTIONS BY OTHER COUNTRIES TO SUPPORT PEACE IN THE MIDDLE EAST

Sec. 7.[9] (a) It is the sense of the Congress that other countries should give favorable consideration to providing support for the implementation of the peace treaty between Egypt and Israel. Therefore, the Congress requests that the President consult with other countries in order to (1) promote and develop an agreement for the establishment of a peace development fund whose purpose would be to underwrite the costs of implementing a Middle East peace, and (2) encourage investments in Israel and Egypt and other countries in the region should they join in Middle East peace agreements.

(b)[10] * * * [Repealed—1981]

PLANNING FOR TRILATERAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION BY EGYPT, ISRAEL, AND THE UNITED STATES

Sec. 8.[11] (a) It is the sense of the Congress that, in order to continue to build the structure of peace in the Middle East, the United States should be prepared to participate, at an appropriate time, in trilateral cooperative projects of a scientific and technological nature involving Egypt, Israel, and the United States.

(b) Therefore, the President shall develop a plan to guide the participation of both United States Government agencies and private institutions in such projects. This plan shall identify—

(1) potential projects in a variety of areas appropriate for scientific and technological cooperation by the three countries, in-

[6] 22 U.S.C. 3403.

[7] Supplemental Appropriations Act, 1979 (Public Law 96–38; 93 Stat. 102) stated: "For an additional amount for the 'Economic support fund' for Egypt, $300,000,000, to remain available until expended.".

[8] 22 U.S.C. 3404.

[9] 22 U.S.C. 3405.

[10] Subsec. (b), which had required a report from the President on U.S. efforts to increase economic aid from other donors to Egypt, Israel, and others in the region and the impact on Egypt's economy of Arab sanctions against Egypt, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on January 6, 1981.

[11] 22 U.S.C. 3406.

cluding agriculture, health, energy, the environment, education, and water resources;

(2) the resources which are available or which would be needed to implement such projects; and

(3) the means by which such projects would be implemented.

(c)[12] * * * [Repealed—1981]

REPORT ON COSTS TO THE UNITED STATES OF IMPLEMENTING THE PEACE TREATY BETWEEN EGYPT AND ISRAEL

Sec. 9.[13] * * * [Repealed—1981]

NON-PROLIFERATION OF NUCLEAR WEAPONS

Sec. 10.[14] In accordance with the Nuclear Non-Proliferation Act of 1978, the Congress strongly encourages all countries in the Middle East which are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons to become parties to that Treaty.

[12] Subsec. (c), which had required the President to transmit the plan developed pursuant to subsec. (b) to the Congress, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). This plan was submitted to Congress on September 29, 1980.

[13] Sec. 9, which has required a report from the President on the costs to the U.S. Government associated with the implementation of the Egyptian-Israeli peace treaty, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on October 25, 1979.

[14] 22 U.S.C. 3408.

f. Anglo-Irish Agreement Support Act of 1986

Partial text of Public Law 99–415 [H.R. 4329], 100 Stat. 947, approved September 19, 1986

AN ACT To authorize United States contributions to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, as well as other assistance.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anglo-Irish Agreement Support Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that the Anglo-Irish Agreement is a clear demonstration of the determination of the Government of the United Kingdom and the Government of Ireland to make progress concerning the complex situation in Northern Ireland. The Congress strongly supports the Anglo-Irish Agreement and is particularly encouraged that these two neighboring countries, longstanding friends of the United States, have joined together to rebuild a land that has too often been the scene of economic hardship and where many have suffered severely from the consequences of violence in recent years. In recognition of our ties of kinship, history, and commitment to democratic values, the Congress believes the United Stats should participate in this renewed commitment to social and economic progress in Northern Ireland and affected areas of Ireland.

(b) PURPOSES.—It is, therefore, the purpose of the Act to provide for United States contributions in support of the Anglo-Irish Agreement, such contributions to consist of economic support fund assistance for payment to the International Fund established pursuant to the Anglo-Irish Agreement, as well as other assistance to serve as an incentive for economic development and reconciliation in Ireland and Northern Ireland. The purpose of these United States contributions shall be to support the Anglo-Irish Agreement in promoting reconciliation in Northern Ireland and the establishment of a society in Northern Ireland in which all may live in peace, free from discrimination, terrorism, and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government.

SEC. 3. UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FUND.

(a) FISCAL YEAR 1986.—Of the amounts made available for the fiscal year 1986 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $50,000,000 shall be used for United States contributions to the International Fund. Pending the formal establishment of the Inter-

national Fund and submission of the certification required by section 5(c) of this Act, these funds may, pursuant to an agreement with the Government of the United Kingdom and the Government of Ireland, be disbursed into and maintained in a separate account.

(b) FISCAL YEARS 1987 AND 1988.—Of the amounts made available for each of the fiscal years 1987 and 1988 to carry out this chapter, $35,000,000 shall be used for United States contributions to the International Fund; and that amount is hereby authorized to be appropriated for each of those fiscal years to carry out that chapter (in addition to amounts otherwise authorized to be appropriated). Amounts appropriated pursuant to this subsection are authorized to remain available until expended.[1]

SEC. 4. OTHER ASSISTANCE.

(a) AVAILABLE AUTHORITIES.—In addition to other available authorities, the following authorities may be used to provide assistance or other support to carry out the purposes of section 2 of this Act:

(1) Section 108 of the Foreign Assistance Act of 1981 (relating to the Private Sector Revolving Fund).

(2) Section 221 through 223 of that Act (relating to the Housing Guaranty Program).

(3) Title IV of chapter 2 of part I of that Act (relating to the Overseas Private Investment Corporation), without regard to the limitation contained in paragraph (2) of the second undesignated paragraph of section 231 of that Act.

(4) Section 661 of that Act (relating to the Trade and Development Agency).[2]

(b) OTHER LAWS.—Assistance under this Act may be provided without regard to any other provision of law.

SEC. 5. CONDITIONS AND UNDERSTANDINGS RELATING TO THE UNITED STATES CONTRIBUTIONS.

(a) PROMOTING ECONOMIC AND SOCIAL RECONSTRUCTION AND DEVELOPMENT.—The United States contributions provided for in this Act may be used only to support and promote economic and social reconstruction and development in Ireland and Northern Ireland. The restrictions contained in sections 531(e) and 660(a) of the Foreign Assistance Act of 1961 apply with respect to any such contributions.

(b) UNITED STATES REPRESENTATION ON THE BOARD OF THE FUND.—The President shall make every effort, in consultation with the Government of the United Kingdom and the Government of

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[1] Congress did not enact an authorization for fiscal year 1998. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2386), waived the requirements for authorization, and title II of that Act (111 Stat. 2393) provided the following:

"INTERNATIONAL FUND FOR IRELAND

"For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 1999.".

[2] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

Ireland, to ensure that there is United States representation on the Board of the International Fund.

(c) PRIOR CERTIFICATIONS.—Each fiscal year, the United States may make contributions to the International Fund only if the President certifies to the Congress[3] that he is satisfied that—

(1) the Board of the International Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and

(2) disbursements from the International Fund—

(A) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

(B) will address the needs of both communities in Northern Ireland.

Each such certification shall include a detailed explanation of the basis for the President's decision.

SEC. 6. ANNUAL REPORTS.

At the end of each fiscal year in which the United States Government makes any contribution to the International Fund, the Presidential shall report to the Congress on the degree to which—

(1) the International Fund has contributed to reconciliation between the communities in Northern Ireland;

(2) the United States contribution to the International Fund is meeting its objectives of encouraging new investment, job creation, and economic reconstruction on the basis of strict equality of opportunity; and

(3) the International Fund has increased respect for the human rights and fundamental freedoms of all people in Northern Ireland.

SEC. 7. REQUIREMENTS RELATING TO FUNDS FOR "INTERNATIONAL ORGANIZATION AND CONFERENCES".

(a) DISBURSEMENTS, AUDITS, AND REPORTS.—The provisions relating to disbursements on vouchers, audits, and submission of reports with respect to expenditures pursuant to the Joint Resolution of July 11, 1956 (Public Law 689), shall also apply with respect to expenditures pursuant to section 109(c) of the Act of November 22, 1983 (Public Law 98–164).

(b)[4] * * *

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "Anglo-Irish Agreement" means the Agreement Between the Government of Ireland and the Government of the United Kingdom dated November 15, 1985; and

(2) the term "International Fund" means the international fund for economic development projects in Northern Ireland and Ireland, established pursuant to Article 10 of the Anglo-Irish Agreement.

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[3] Most recently, the President made such a determination for fiscal years 1996 and 1997 on September 22, 1997 (Presidential Determination No. 97–33; 62 F.R. 53217).

[4] Sec. 7(b) amended sec. 109 of the Act of November 22, 1983 (Public Law 98–164).

g. International Narcotics Control

(1) International Narcotics Control Corrections Act of 1994

Partial text of Public Law 103–447 [H.R. 5246], 108 Stat. 4691, approved November 2, 1994

AN ACT To amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "International Narcotics Control Corrections Act of 1994".

TITLE I—INTERNATIONAL NARCOTICS CONTROL

* * * * * * *

SEC. 104.[2] EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEAR 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) EXEMPTION.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2321k);

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e)of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

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[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2420 note.

SEC. 105.[3] WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For fiscal year 1995, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act (22 U.S.C. 2291j(e)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

SEC. 106.[3, 4] AUTHORITY FOR ANTICRIME ASSISTANCE.

(a) POLICY.—International criminal activities, including international narcotics trafficking, money laundering, smuggling, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(b) AUTHORITY.—

(1) IN GENERAL.—For fiscal year 1995, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the prevention and suppression of international criminal activities.

(2) WAIVER OF PROHIBITION OF POLICE TRAINING.—Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to assistance furnished under paragraph (1).

SEC. 107.[5] ASSISTANCE TO DRUG TRAFFICKERS.

The President shall take all reasonable steps provided by law to ensure that the immediate relatives of any individual described in section 487(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291f(a)), and the business partners of any such individual or of any entity described in such section, are not permitted entry into the United States, consistent with the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

TITLE II—NATO PARTICIPATION ACT OF 1994[6]

* * * * * * *

[3] 22 U.S.C. 2151 note.

[4] In an April 4, 1995, memorandum for the Secretary of State, the President delegated authority under this section with respect to funds made available to the Secretary of State (60 F.R. 19153).

[5] 8 U.S.C. 1182 note.

[6] For title II, see *Legislation on Foreign Relations Through 1997*, vol. II.

(2) International Narcotics Control Act of 1990

Partial text of Public Law 101–623 [H.R. 5567], 104 Stat. 3350, approved November 21, 1990

AN ACT To authorize international narcotics control activities for fiscal year 1991, and for other purposes.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a)[1] SHORT TITLE.—This Act may be cited as the "International Narcotics Control Act of 1990".

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

Sec. 1. Short title and table of contents.
Sec. 2. Economic assistance and administration of justice programs for Andean countries.
Sec. 3. Military and law enforcement assistance for Andean countries.
Sec. 4. General provisions relating to assistance for Andean countries.
Sec. 5. International narcotics control assistance.
Sec. 6. Assistance for agricultural and industrial alternatives to narcotics production.
Sec. 7. Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold.
Sec. 8. Number of members of United States Armed Forces in Andean countries.
Sec. 9. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 10. Authority to transfer military assistance funds to economic programs.
Sec. 11. Extradition of United States citizens.
Sec. 12. Congressional review of narcotics-related assistance for Afghanistan.
Sec. 13. Training of foreign pilots.
Sec. 14. Review of riverine program.
Sec. 15. Uses of excess defense articles transferred to certain major illicit drug producing countries.
Sec. 16. Export-Import Bank financing for sales of defense articles and services.
Sec. 17. Debt-for-drugs exchanges.

SEC. 2. ECONOMIC ASSISTANCE AND ADMINISTRATION OF JUSTICE PROGRAMS FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $300,000,000 for fiscal year 1991 for assistance for Andean countries under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) or under chapter 1 of part I of that Act (22 U.S.C. 2151 and following; relating to development assistance).

(b) ADMINISTRATION OF JUSTICE PROGRAMS.—

(1) ADDITIONAL ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.—Of the funds authorized to be appropriated by subsection (a) that are appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, up to $16,000,000

[1] 22 U.S.C. 2151 note.

should be used to provide assistance for Bolivia, Colombia, and Peru—

(A) pursuant to section 534 of that Act (22 U.S.C. 2346c; relating to the administration of justice program), in addition to funds otherwise used for those countries under that section for fiscal year 1991; and

(B) pursuant to paragraphs (2) and (3) of this subsection.

(2) PROTECTION AGAINST NARCO-TERRORIST ATTACKS.—Funds used in accordance with paragraph (1) may be used to provide to Bolivia, Colombia, and Peru, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies), such assistance as the government of that country may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(3) ASSISTANCE FOR COLOMBIA'S OFFICE OF SPECIAL INVESTIGATIONS AND SPECIAL PROSECUTOR FOR HUMAN RIGHTS.—It is the sense of the Congress that up to $2,000,000 of the funds used in accordance with paragraph (1) should be used for assistance for Colombia to provide training, technical assistance, and equipment for the Office of Special Investigations and the Special Prosecutor for Human Rights, both of which are within the Office of the Attorney General of the Government of Colombia.

(4) ADDITIONALITY OF ASSISTANCE.—Funds may be used in accordance with paragraph (1) of this subsection without regard to the dollar limitation contained in section 534(c) of the Foreign Assistance Act of 1961.

(5) PERIOD OF AVAILABILITY.—Funds allocated for use in accordance with paragraph (1) of this subsection shall remain available until expended notwithstanding any other provision of law.

(6) EXTENSION OF AUTHORITY FOR AOJ PROGRAM.—Section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) is amended—

(A) in the second sentence by striking out "$7,000,000 may be made available in fiscal year 1990" and inserting in lieu thereof "$10,000,000 may be made available in fiscal year 1991"; and

(B) in the third sentence by striking out "1990" and inserting in lieu thereof "1991".

SEC. 3. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $118,000,000 for fiscal year 1991 for assistance for Andean countries under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) PURPOSES OF ASSISTANCE.—Assistance under subsection (a) shall be designed to—

(1) enhance the ability of the government of the recipient country to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with that government by offering concrete assistance in this area of great mutual concern;

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking; and

(4) assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies, which are charged with the main responsibility for the control of illicit narcotics production and trafficking.

(c) CONDITIONS OF ELIGIBILITY.—Assistance may be provided for an Andean country under subsection (a) only—

(1) so long as that country has a democratic government; and

(2) the government of that country, including the armed forces and law enforcement agencies, does not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1))).

(d) LAW ENFORCEMENT TRAINING AND EQUIPMENT.—Subject to subsection (e), funds made available to carry out subsection (a) may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies)—

(1) to provide to law enforcement units, that are organized for the specific purpose of narcotics enforcement, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts;

(2) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction; and

(3) for the procurement of defense articles or commodities (as defined in section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c))) for use in narcotics control, eradication, and interdiction efforts by law enforcement units that are organized for the specific purpose of narcotics enforcement.

(e) MILITARY AND LAW ENFORCEMENT ASSISTANCE.—

(1) LIMITATIONS ON AMOUNTS.—The aggregate amount of military and law enforcement assistance provided for Bolivia, Colombia, and Peru for fiscal year 1991 may not exceed $250,000,000. Of that amount—

(A) not more than $175,000,000 may be assistance for the armed forces; and

(B) not more than $175,000,000 may be assistance for law enforcement units or agencies.

(2) DEFINITION OF MILITARY AND LAW ENFORCEMENT ASSISTANCE.—For purposes of paragraph (1), the term "amount of military and law enforcement assistance" means the sum of—

(A) the amount obligated for assistance under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(B) the amount obligated for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance);

(C) the amount obligated for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international military education and training);

(D) the value of defense articles, defense services, and military education and training made available under the special drawdown authority of paragraphs (1) and (2) of section 506(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)); and

(E) the value of excess defense articles made available under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k).

(f) LIMITATIONS ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED TO BOLIVIA, COLOMBIA, AND PERU.—

(1) ESTABLISHMENT OF LIMIT.—The aggregate acquisition cost to the United States of excess defense articles ordered by the President in fiscal year 1991 for delivery to Bolivia, Colombia, and Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) may not exceed $60,000,000.

(2) WAIVER OF EXISTING GRANT EDA LIMITATION.—The dollar limitation in section 517(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(e)) shall not apply with respect to Bolivia, Colombia, and Peru in fiscal year 1991.

(3) WORLDWIDE LIMITATION ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED.—Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)) shall not apply to excess defense articles ordered for transfer to Bolivia, Colombia, or Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) in fiscal year 1991.

(g) ASSISTANCE FOR LEASING OF AIRCRAFT.—

(1) USE OF FUNDS.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c), funds made available under subsection (a) may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act.

(2) COST OF LEASES.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(3) REIMBURSEMENT OF SDAF.—To the extent that aircraft so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this subsection to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

SEC. 4. GENERAL PROVISIONS RELATING TO ASSISTANCE FOR ANDEAN COUNTRIES.

(a)[2] PRESIDENTIAL DETERMINATION REQUIRED.—Assistance may be provided for an Andean country pursuant to the authorizations of appropriations provided in section 2(a) and section 3(a), and excess defense articles may be transferred to Bolivia, Colombia, or Peru in fiscal year 1991 pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k), only if the President determines that—

(1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs;

(2) the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of internationally recognized human rights, and the government of that country has made significant progress in protecting internationally recognized human rights, particularly in—

(A) ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; and

(B) permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States; and

(3) the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities.

(b) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to section 2(a) or section 3(a), the President shall transmit to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

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[2] The President delegated functions required in sec. 4(a) and (e), to the Secretary of State. He further delegated functions in sec. 13 to the Secretary of State in consultation with the Secretary of Defense, and functions in secs. 8 and 13 to the Secretary of Defense, and allowed reporting requirements to be further redelegated within executive departments or relevant agencies (Presidential Determination No. 91–20 of January 25, 1991; 56 F.R. 8681; March 1, 1991).

The Acting Secretary of State made such a determination as required in sec. 4(a) regarding Peru on August 9, 1991 (Department of State Public Notice 1447; 56 F.R. 38165; August 12, 1991). The Secretary of State made such determinations as required in sec. 4(a) regarding Bolivia, Colombia, and Ecuador on November 6, 1991 (Department of State Public Notice 1518; 56 F.R. 57030; November 7, 1991).

(3) in the case of assistance provided pursuant to section 3(a), the law enforcement or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will further—

(A) the objectives specified in subsection (a) of this section, and

(B) in the case of assistance under section 3(a), the purposes specified in section 3(b).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance authorized by section 2(a) and section 3(a) shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(d) CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—For fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, shall not apply with respect to narcotics-related assistance for an Andean country, provided the President has made the determination described in subsection (a) of this section.

(e)[2] AUTHORITY TO WAIVER REQUIREMENT TO WITHHOLD 50 PERCENT OF ASSISTANCE PENDING CERTIFICATION.—Section 481(h)(1)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(A)) shall not apply with respect to Bolivia, Colombia, and Peru for fiscal year 1991 if the President—

(1) determines that its application would be contrary to the national interest; and

(2) transmits written notification of that determination to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogrammings under that section.

SEC. 5. INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

There are authorized to be appropriated $150,000,000 for fiscal year 1991 for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

SEC. 6.[3] ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION.

(a) WAIVER OF RESTRICTIONS.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance to a foreign country under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) to promote the production, processing, or the marketing of products or commodities, notwithstanding any other provision of law that would otherwise prohibit the provision of assistance to promote the

[3] 22 U.S.C. 2151x–1.

production, processing, or the marketing of such products or commodities.

(b) EFFECTIVE DATE.—Subsection (a) applies with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 7.[4] EXCEPTIONS TO REQUIREMENT THAT AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES BE LEASED RATHER THAN SOLD. * * *

SEC. 8.[2, 5] NUMBER OF MEMBERS OF UNITED STATES ARMED FORCES IN ANDEAN COUNTRIES.

MONTHLY REPORTS.—Within 15 days after the end of each month, the President shall submit to the Congress a report listing the number of members of the United States Armed Forces who were assigned or detailed to, or otherwise performed functions in, each Andean country at any time during that month.

SEC. 9.[6] NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES. * * *

SEC. 10.[7] AUTHORITY TO TRANSFER MILITARY ASSISTANCE FUNDS TO ECONOMIC PROGRAMS.

SEC. 11.[8] EXTRADITION OF UNITED STATES CITIZENS. * * *

SEC. 12. CONGRESSIONAL REVIEW OF NARCOTICS-RELATED ASSISTANCE FOR AFGHANISTAN.

Not less than 15 days before obligating funds made available for any fiscal year to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act for any assistance for Afghanistan that has narcotics control as one of its purposes, the President shall notify the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 13.[2, 9] TRAINING OF HOST COUNTRY PILOTS.

(a) INSTRUCTION PROGRAM.—Not less than 90 days after the date of enactment of this Act, the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pilots, and other flight crew members, to fly host country aircraft involved in counternarcotics efforts in Andean countries. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use of either direct hire or contract personnel) in the operation of such aircraft.

(b) REQUIREMENT FOR REPLACEMENT OF UNITED STATES GOVERNMENT PILOTS BY HOST COUNTRY PILOTS.—The President shall ensure that, within 18 months after the date of enactment of this Act, flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including

[4] Sec. 7 amended sec. 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c).
[5] 22 U.S.C. 2291 note.
[6] Sec. 9 amended sec. 8 of the International Narcotics Control Act of 1989.
[7] Sec. 10 amended sec. 610(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2360(a)).
[8] Section 11 amended chapter 209 of title 18, U.S.C., by adding a new sec. 3196.
[9] 22 U.S.C. 2291h note.

both direct hire or contract personnel) for host country aircraft involved in airborne counternarcotics operations in the Andean countries.

(c) AIRCRAFT SUBJECT TO REQUIREMENTS.—As used in this section, the term "host country aircraft" means any aircraft made available to an Andean country by the United States Government under chapter 8 of part I of the Foreign Assistance Act of 1961, or any other provision of law, for use by that country for narcotics-related purposes.

SEC. 14. REVIEW OF RIVERINE PROGRAM.

Funds made available to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be used for the procurement of surface water craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and have submitted a report to Congress on—

(1) the specific goals and objectives of such programs;

(2) how such craft will further the attainment of those goals and objectives;

(3) the cost and utility of craft to be provided; and

(4) how such craft will be sustained through maintenance and training.

SEC. 15.[10] USES OF EXCESS DEFENSE ARTICLES TRANSFERRED TO CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES. * * *

SEC. 16.[11] EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES. * * *

SEC. 17. DEBT-FOR-DRUGS EXCHANGES.

(a) FINDINGS.—The Congress finds that—

(1) section 10 of the International Narcotics Control Act of 1989 gives the President the authority to provide relief with respect to certain debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, or the Government of Peru if the President determines that that country is implementing programs to reduce the flow of cocaine to the United States;

(2) President Bush has endorsed the concept of debt relief with respect to debt owed by Latin American governments to the United States Government in his "Enterprise for Americans Initiative", announced June 27, 1990; and

(3) President Bush has proposed forgiveness of foreign military sales debt owed by the Government of Egypt to the United States Government.

(b) USE OF DEBT-FOR-DRUGS AUTHORITY.—The Congress urges the President to use the authority provided in section 10 of the International Narcotics Control Act of 1989 to forgive debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, and the Government of Peru.

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[10] Section 15 amended sec. 517(c) of the Foreign Assistance Act of 1961.

[11] Section 16 amended sec. 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945.

(3) Licit Opium Imports

Title XXVI of Public Law 101–647 [Crime Control Act of 1990, S. 3266], 104 Stat. 4789 at 4911, approved November 29, 1990

AN ACT To control crime.

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

SEC. 1.[1] SHORT TITLE.

This Act may be cited as the "Crime Control Act of 1990".

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TITLE XXVI—LICIT OPIUM IMPORTS

SEC. 2501. UNITED STATES POLICY REGARDING IMPORTATION OF NARCOTIC RAW MATERIAL.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine the advisability of continued reliance on the "80–20 rule" (21 C.F.R. sec. 1312.13) by which at least 80 percent of United States imports of narcotics raw material must come from India and Turkey.

(b) AGENCIES TO BE INVOLVED.—This review shall include information and views from the Department of State, the Administrator of the Drug Enforcement Administration, and the Secretary of the Department of Health and Human Services, the Secretary of Commerce and any other agencies the President determines appropriate.

(c) NATURE AND CONTENTS.—This review shall include—

(1) a report on the extent of the diversion taking place from the licit to the illicit market in India from the farm gate through the stockpile;

(2) an evaluation of the efforts being made by the Government of India to stop diversion from the licit to the illicit market, to limit its stockpile of opium gum, and to limit and regulate the amount of land and number of farmers devoted to poppy cultivation, and the success or failure of these efforts;

(3) a description of the steps the President has taken to encourage these actions on the part of the Indian government, what further steps are contemplated and what action will be taken if Indian action proves ineffective;

(4) an assessment of whether continued reliance on the 80–20 rules serves to encourage these actions, an assessment of what circumstances would make continued reliance on the rule unacceptable to the President, and proposals for executive or legislative modification of the rule under those circumstances;

[1] 18 U.S.C. 1 note.

(5) an assessment of the feasibility of India converting from the opium gum to the concentrated poppy straw method of opium production;

(6) an assessment of the effects on United States supplies of narcotic raw material in the absence of 80–20; and

(7) an evaluation of the potential for market manipulation under the 80–20 rule.

(d) REPORTS TO CONGRESS.—The President shall report the results of this review to Congress not later than April 1, 1991.

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(4) International Narcotics Control Act of 1989

Partial text of Public Law 101–231 [H.R. 3611], 103 Stat. 1954, approved December 13, 1989; as amended by Public Law 101–623 [International Narcotics Control Act of 1990, H.R. 5567], 104 Stat. 3350, approved November 21, 1990; and Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992

AN ACT To combat international narcotics production and trafficking.

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

SECTION 1.[1] SHORT TITLE AND TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "International Narcotics Control Act of 1989".

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

Sec. 1. Short title and table of contents.
Sec. 2. Andean drug initiative.
Sec. 3. Military and law enforcement assistance for Bolivia, Colombia, and Peru.
Sec. 4. Acquisition by Special Defense Acquisition Fund of defense articles for narcotics control purposes.
Sec. 5. Excess defense articles for certain major illicit drug producing countries.
Sec. 6. Waiver of Brooke-Alexander amendment for major coca producing countries.
Sec. 7. Mexico.
Sec. 8. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 9. Coordination of United States trade policy and narcotics control objectives.
Sec. 10. Debt-for-drugs exchanges.
Sec. 11. Multilateral antinarcotics strike force.
Sec. 12. Weapons transfers to international narcotics traffickers.
Sec. 13. Rewards for information concerning acts of international terrorism.
Sec. 14. Waiver of Bumpers Amendment.
Sec. 15. Participation in foreign police actions.
Sec. 16. Authorization of appropriations for international narcotics control assistance.
Sec. 17. Revisions of certain narcotics-related provisions of the Foreign Assistance Act.

SEC. 2. ANDEAN DRUG INITIATIVE.

(a) FINDINGS RELATING TO ECONOMIC ASSISTANCE NEEDS.—The Congress finds that—

(1) it is crucial to international antidrug efforts that funds be made available for crop substitution programs and alternative employment opportunities to provide alternative sources of income for those individuals in major coca producing countries who are dependent on illicit drug production activities, as well as for eradication, enforcement, rehabilitation and treatment, and education programs in those countries; and

(2) the United States and other major donor countries (including European countries and Japan) should provide increased economic assistance, on an urgent basis, to those major

[1] 22 U.S.C. 2151 note.

coca producing countries which have taken concrete steps to attack illicit coca production, processing, and trafficking, by eradication, interdiction, or other methods which significantly reduce the flow of cocaine to the world market.

(b) PLAN TO ADDRESS NEED FOR ASSISTANCE.—The Congress, therefore, urges the Director of National Drug Control Policy to submit to the Congress in February 1990, as part of the National Drug Control Strategy report required by section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504), a plan which addresses the need outlined in subsection (a).

(c) ANDEAN SUMMIT.—The Congress urges the President in the strongest possible terms to include the following issues on the formal agenda of the meeting between the President and the heads of government of Bolivia, Colombia, and Peru, scheduled for early February 1990:

(1) Bilateral and multilateral antidrug efforts that make funds available for crop substitution programs and alternative employment opportunities in major coca producing countries, as well as for eradication, enforcement, rehabilitation and treatment, and education programs in those countries.

(2) Initiatives to improve and expand antidrug efforts in the Andean region, including through the use of United States international economic, commercial, and other policies.

(3) Prior bilateral discussions aimed at increasing multilateral economic development assistance from Japan, Canada, and Western European countries for antidrug efforts in the Andean region.

(4) Debt-for-drugs exchanges that forgive Andean bilateral debt held by the United States and other creditor countries in return for commitments by Andean governments to use the savings in debt service for antidrug programs, pursuant to agreements negotiated under section 481(h)(2)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(2)(B)) and other international agreements and initiatives.

(5) Bilateral and multilateral efforts to halt the transfer of arms, precursor chemicals, and sophisticated communications equipment and technology from legitimate sources to drug trafficking organizations.

(d) REPORT ON ANDEAN SUMMIT MEETING.—Not later than 30 days after the conclusion of the Andean summit meeting described in subsection (c), the President shall report to the Congress on the outcome of that meeting.

(e) SUPPLEMENTAL BUDGET REQUESTS.—At the same time as he submits the report required by subsection (d), the President shall submit to the Congress such supplemental budget requests for fiscal years 1990 and 1991 as may be necessary to cover the United States share of the cost of additional economic assistance to implement an Andean antidrug strategy, including the commitments made at the Andean summit meeting described in subsection (c).

SEC. 3.[2] MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of the Government of Bolivia, the Government of Colombia, and the Government of Peru to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with those governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) MILITARY ASSISTANCE AND TRAINING.—Subject to the requirements of this section, the President is authorized to use the funds made available to carry out this section to provide defense articles, defense services, and international military education and training to Bolivia, Colombia, and Peru. Such assistance shall be provided under the authorities of section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military financing program) and chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following; relating to international military education and training). Such assistance is in addition to any other such assistance made available to those countries.

(c) LAW ENFORCEMENT TRAINING.—

(1) AUTHORIZED FORMS AND RECIPIENTS OF ASSISTANCE.—Subject to paragraph (2), up to $6,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance)—

(A) to provide to law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement by the Government of Bolivia, the Government of Colombia, or the Government of Peru, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(B) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(2) OFFSETTING REDUCTION.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Ap-

[2] 22 U.S.C. 2291 note.

propriations Act, 1990, for the purposes specified in subparagraph (A) or (B) of paragraph (1).[3]

(d) EQUIPMENT FOR LAW ENFORCEMENT UNITS.—

(1) AUTHORIZED FORMS AND RECIPIENTS OF ASSISTANCE.—Subject to paragraph (2), up to $12,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance), for the procurement of defense articles for use in narcotics control, eradication, and interdiction efforts by law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(2) OFFSETTING REDUCTION.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, for the procurement of weapons or ammunition in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961.

(e) CONDITIONS OF ELIGIBILITY.—Assistance may be provided under this section to Bolivia, Colombia, or Peru only—

(1) so long as that country has a democratic government; and

(2) the law enforcement agencies of that country do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1)).

(f) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to this section, the President shall transmit to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(g) REPORTS ON HUMAN RIGHTS SITUATION.—Section 502B(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(c); relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(h) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

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[3] In the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1195), see sec. 569, "Narcotics Control Program" (103 Stat. 1243), and sec. 599H, "Crops in Peru, Bolivia and Jamaica" (103 Stat. 1265).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $125,000,000 for fiscal year 1990 to carry out this section, which amount is authorized to be made available until expended.

(j)[4] CERTAIN FUNDING LIMITATIONS.—The dollar limitations specified in subsections (c)(1) and (d)(1) shall not apply after the date of enactment of this subsection.

SEC. 4.[5] ACQUISITION BY SPECIAL DEFENSE ACQUISITION FUND OF DEFENSE ARTICLES FOR NARCOTICS CONTROL PURPOSES. * * *

SEC. 5.[6] EXCESS DEFENSE ARTICLES FOR CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES. * * *

SEC. 6. WAIVER OF BROOKE-ALEXANDER AMENDMENT FOR MAJOR COCA PRODUCING COUNTRIES.

During fiscal year 1990, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1990, do not apply with respect to narcotics-related assistance for a country which is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961) because of its coca production.

SEC. 7. MEXICO.

(a) LIMITATION ON NARCOTICS CONTROL ASSISTANCE.—

(1) LIMITATION.—Except as provided in paragraph (2), not more than $15,000,000 of the amounts made available for fiscal year 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance) may be made available for Mexico.

(2) PROCEDURE FOR ADDITIONAL ASSISTANCE.—Assistance in excess of the amount specified in paragraph (1) may be made available for Mexico only if the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) are notified at least 15 days in advance in accordance with the procedures applicable to reprogrammings under that section.

(b) SENATE POLICY TOWARD THE CONTROL OF ILLEGAL DRUGS IN MEXICO.—

(1) FINDINGS.—The Senate finds that—

(A) the Foreign Assistance Act of 1961 requires, except in cases of vital national interest, that all countries determined to be a major illicit drug producing country or a major drug-transit country must be "cooperating fully" with United States antinarcotics activities in order to continue receiving various forms of United States foreign assistance;

(B) relations between the United States and Mexico have suffered since the 1985 kidnapping and murder of Drug

[4] Sec. 6(d) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4933; November 2, 1992) added subsec. (j).

[5] Sec. 4 amended sec. 51(a) of the Arms Export Control Act (22 U.S.C. 2795(a)).

[6] Sec. 5 amended chapter 2 of part II of the Foreign Assistance Act (22 U.S.C. 2311 and following) by adding a new sec. 517.

Enforcement Administration agent Enrique Camarena and the 1986 torture of DEA agent Victor Cortez;

(C) testimony before the Senate dating to 1986 has indicated that high-ranking Mexican government, military, and law enforcement officials have been involved in illegal narcotics operations, including narcotics trafficking operations into the United States;

(D) Mexico has been determined to be the primary producer of marijuana and heroin entering the United States and the transit point for up to 50 percent of the cocaine being smuggled into this country;

(E) there have been three drug-related mass murders involving more than 30 victims along the southwest border in recent months involving Mexican drug trafficking organizations;

(F) the United States continues to seek, with Mexican cooperation, hot pursuit and overflight authority for United States law enforcement agencies, access to bank records, verification of eradication figures, information on those who have been tried, charged, sentenced, and served time for narcotics-related crimes, and extradition of criminal figures;

(G) there was sworn in a new president and Government of Mexico on December 1, 1988, creating a new era of opportunity for increased cooperation and mutual friendship;

(H) the new President of Mexico, Carlos Salinas de Gortari, has indicated a strong willingness to expand and improve Mexico's antinarcotics activities;

(I) the Chief of the Mexico City Police Investigative Service, Miguel Nazar Haro, who is under indictment in the United States, has been fired;

(J) the Government of Mexico has arrested Miguel Angel Felix-Gallardo, one of the most notorious drug trafficking figures in Mexico;

(K) Mexican officials have for the first time conceded that corrupt Mexican officials, including law enforcement, government, and military officials, have previously protected Mr. Gallardo; and

(L) criminal charges of electoral fraud against the mayor of Hermosillo, Carlos Robles, and homicide and arms charges against the head of Mexico's Oil Workers Union, Joaquin Hernandez Galicia, have been filed.

(2) SENATE POLICY.—It is the sense of the Senate that—

(A) President Salinas should be supported in his expressed willingness to end the narcotics-related corruption that has permeated the Government of Mexico in the past;

(B) Mexico should conclude the prosecution of the murders of Drug Enforcement Administration agent Camarena, the perpetrators of torture against DEA agent Cortez, and make progress in the prosecution of Felix-Gallardo;

(C) Mexico should demonstrate its commitment to cooperating fully in antinarcotics activities by entering into negotiations with the United States on —

(i) joint overflight and hot pursuit operations, involving Mexican law enforcement officials traveling on United States interdiction aircraft with Mexican officers having responsibility for actual arrests of suspects;

(ii) participation of United States law enforcement agencies in air surveillance flights for interdiction efforts and joint United States-Mexico border enforcement and interdiction operations;

(iii) United States requests for access to bank records to assist in carrying out narcotics-related investigations; and

(iv) United States requests for verification of eradication statistics, including ground verification; and

(D) the people of Mexico should be supported in their efforts to rid their country of illicit narcotics, bribery and corruption, and electoral fraud.

SEC. 8. NONAPPLICABILITY OF CERTAIN PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1990 or fiscal year 1991[7] if the President certifies to the Congress, during that fiscal year, that—

(1) subparagraph (C) of section 481(i)(5) of that Act, relating to money laundering, does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(2)(B) of that Act) or a multilateral agreement which achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts.

SEC. 9. COORDINATION OF UNITED STATES TRADE POLICY AND NARCOTICS CONTROL OBJECTIVES.

(a) NEED FOR COORDINATION.—It is the sense of the Congress that United States trade policy should be coordinated with United States narcotics control objectives, particularly with respect to issues such as the International Coffee Agreement.

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[7] Section 9 of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3355) inserted "or fiscal year 1991".

(b) PRESIDENTIAL REVIEW.—The Congress commends the President for reviewing whether the International Coffee Agreement negotiations should be resumed and whether the trade benefits provided in the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 and following) should be extended to the major coca producing countries of Latin America.

SEC. 10.[8] DEBT-FOR-DRUGS EXCHANGES.

(a) AUTHORITY.—The President may release Bolivia, Colombia, or Peru from its obligation to make payments to the United States Government of principal and interest on account of a loan made to that country under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to foreign assistance programs) or credits extended for that country under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits) if the President determines that that country is implementing programs to reduce the flow of cocaine to the United State in accordance with a formal bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs.

(b) CONGRESSIONAL REVIEW OF AGREEMENTS.—The President shall submit any such agreement with Bolivia, Colombia, or Peru to the Committee on Foreign Affairs[9] of the House of Representatives and the Committee on Foreign Relations of the Senate at least 15 days before exercising the authority of section (a) with respect to that country.

(c) COORDINATION WITH MULTILATERAL DEBT RELIEF ACTIVITIES.—The authority provided in subsection (a) shall be exercised in coordination with multilateral debt relief activities.

(d) EFFECTIVE DATE.—Subsection (a) takes effect on October 1, 1990.

SEC. 11. MULTILATERAL ANTINARCOTICS STRIKE FORCE.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has, in the past, indicated its support for a multilateral, regional approach to narcotics control efforts;

(2) a proposal to create a multilateral, international antinarcotics force for the Western Hemisphere, is a plan worthy of praise and strong United States support;

(3) the development of a greater capability to assist the governments of Latin America and the Caribbean, including the Caribbean Basin nations, is an essential component of efforts to interdict the flow of narcotics to the United States; and

(4) regional leadership in the promotion of a multilateral, paramilitary force to combat the drug cartels is welcomed and encouraged.

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

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[8] 22 U.S.C. 2291 note.

[9] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(1) the proposal for the promotion of a regional multilateral antinarcotics force for the Western Hemisphere should be endorsed; and

(2) the United States should work through the United Nations, the Organization of American States, and other multilateral organizations to determine the feasibility of such a force and should assist in the establishment of this force if it is found to be feasible.

SEC. 12. WEAPONS TRANSFERS TO INTERNATIONAL NARCOTICS TRAFFICKERS.

HALTING WEAPONS TRANSFERS TO NARCOTICS TRAFFICKERS.—The Congress urges the President to seek agreement by the relevant foreign countries, especially the member countries of the North Atlantic Treaty Organization and the member countries of the Warsaw Pact, to join with the United State in taking the necessary steps to halt transfers of weapons to narcotics traffickers in Latin America.

(b) COORDINATION OF UNITED STATES EFFORTS TO TRACK ILLEGAL ARMS TRANSFERS.—The Congress urges the President to improve the coordination of United States Government efforts —

(1) to track the flow of weapons illegally from the United States and other countries to international narcotics traffickers, and

(2) to prevent such illegal shipments from the United States.

(c) INTERPOL.—The Congress calls upon the President to direct the United States representative to INTERPOL to urge that organization to study the feasibility of creating an international database on the flow of those types of weapons that are being acquired illegally by international narcotics traffickers.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the steps taken in accordance with this section.

SEC. 13. REWARDS FOR INFORMATION CONCERNING ACTS OF INTERNATIONAL TERRORISM.

(a) AMENDMENT.—Subject to subsection (b), section 36(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(c)) is amended by striking out "$500,000" and inserting in lieu thereof "$2,000,000".

(b) AVOIDING DUPLICATIVE AMENDMENTS.—If the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is enacted before this Act, and that Act makes the same amendment as is described in subsection (a), then subsection (a) shall not take effect, If, however, this Act is enacted before the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and that Act would make the same amendment as is made by subsection (a), then that amendment as proposed to be made by that Act shall not take effect.[10]

SEC. 14. WAIVER OF BUMPERS AMENDMENT.

(a) ASSISTANCE FOR CROP SUBSTITUTION ACTIVITIES.—During fiscal year 1990, the provisions described in subsection (b) do not

[10] The Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 15), was enacted on February 16, 1990. See sec. 1001 in *Legislation on Foreign Relations Through 1997*, vol. II, sec. D.

apply with respect to assistance for crop substitution activities undertaken in furtherance of narcotics control objectives.

(b) BUMPERS AMENDMENT.—The provisions made inapplicable by subsection (a) are any provisions of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that prohibit the use of funds made available to carry out part I of the Foreign Assistance Act of 1961 for activities in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States.

SEC. 15.[11] PARTICIPATION IN FOREIGN POLICE ACTIONS. * * *

SEC. 16.[12] AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE. * * *

SEC. 17.[13] REVISIONS OF CERTAIN NARCOTICS-RELATED PROVISIONS OF THE FOREIGN ASSISTANCE ACT. * * *

[11] Sec. 15 amended sec. 481(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)).

[12] Sec. 16 amended sec. 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2292(a)(1)).

[13] Sec. 17 extensively amended sec. 481 of the Foreign Assistance Act of 1961. Section 17(h) made conforming amendments to secs. 802 and 805 of the Narcotics Control Trade Act. For text, see *Legislation on Foreign Relations Through 1997*, vol. III, sec. J (title VIII of the Trade Act of 1974).

(5) International Narcotics Control Act of 1988

Title IV of Public Law 100–690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat. 4181 at 4261, approved November 18, 1988; amended by Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; and by Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691, approved November 2, 1994

NOTE.— Sec. 6(e)(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4933) provided the following:

"(e) REPEAL OF OBSOLETE PROVISIONS.—

"(1) 1988 DRUG ACT.—All sections of the International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988) are repealed except for sections 4001, 4306, 4308, 4309, 4501, 4702, and 4804. Section 4501(b) of that Act is amended by striking out 'Section 4601 of this title' and inserting in lieu thereof 'Section 489(b) of the Foreign Assistance Act of 1961'.".

Subsequently, Sec. 103(b) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447) repealed the remaining sections except for the title heading and sec. 4702, subsections (a) through (f).

AN ACT To prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1988".

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TITLE IV—INTERNATIONAL NARCOTICS CONTROL

SEC. 4702.[2] RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress finds that international currency transactions, especially in United States currency, that involve the proceeds of narcotics trafficking fuel trade in narcotics in the United States and worldwide and consequently are a threat to the national security of the United States.

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[1] 21 U.S.C. 1501 note.
[2] 31 U.S.C. 5311 note.

(b) PURPOSE.—The purpose of this section is to provide for international negotiations that would expand access to information on transactions involving large amounts of United States currency wherever those transactions occur worldwide.

(c) NEGOTIATIONS.—(1) The Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") shall enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business in United States currency. Highest priority shall be attached to countries whose financial institutions the Secretary determines, in consultation with the Attorney General and the Director of National Drug Control Policy, may be engaging in currency transactions involving the proceeds of international narcotics trafficking, particularly United States currency derived from drug sales in the United States.

(2) The purposes of negotiations under this subsection are—

(A) to reach one or more international agreements to ensure that foreign banks and other financial institutions maintain adequate records of large United States currency transactions, and

(B) to establish a mechanism whereby such records may be made available to United States law enforcement officials.

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

(d) REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs[3] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

(e) AUTHORITY.—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect the United States involving the proceeds of international narcotics trafficking;

[3] Sec. 1(a)(2) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives.

(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

(3) such country is not negotiating in good faith to reach such an agreement,

the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

(f) DEFINITIONS.—For the purposes of this section—

(1) The term "United States currency" means Federal Reserve Notes and United States coins.

(2) The term "adequate records" means records of United States' currency transactions in excess of $10,000 including the identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.

(g)[4] * * * [Repealed—1994]

[4] Sec. 103(b) of Public Law 103–447 (108 Stat. 4693) repealed subsec. (g), which had previously read as follows:

"(g) SUNSET.—The authority given the President in subsection (e) shall expire on June 30, 1994.".

(6) International Narcotics Control Act of 1986

Title II of Public Law 99–570 [Anti-Drug Abuse Act of 1986, H.R. 5484], 100 Stat. 3207–60, approved October 27, 1986; amended by Public Law 100–690 [International Narcotics Control Act of 1988, H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; and by Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691, approved November 2, 1994

NOTE.— Sec. 6(e)(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4933) provided the following:

"(e) REPEAL OF OBSOLETE PROVISIONS.— * * *

"(2) 1986 DRUG ACT.—All sections of the International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986) are repealed except for sections 2001, 2010, 2015, 2018, and 2029.".

Subsequently, Sec. 103(c) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447) repealed the remaining sections except for the title heading and sec. 2018.

AN ACT To strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes

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

SEC. 1.[1] SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

* * * * * * *

TITLE II—INTERNATIONAL NARCOTICS CONTROL

SEC. 2018.[2] MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors

[1] 21 U.S.C. 801 note.
[2] 22 U.S.C. 2291 note.

of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.[3]

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 229(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

[3] Sec. 407(b) and (c) of the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2504) required the Secretary of the Treasury to include in this report a discussion of any multilateral development bank evaluation of those countries determined to be "major producers, processors, traffickers, or exporters of illegal drugs to the United States" applying for loans to reduce their debt and debt burden.

(7) Export-Import Bank Act of 1945, as amended—Provisions Governing Foreign Assistance Act Funds In Counter-Narcotics

Partial text of Public Law 79–173 [H.R. 3771], 59 Stat. 526, approved July 31, 1945, as amended

AN ACT To provide for increasing the lending authority of the Export-Import Bank of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export-Import Bank Act of 1945."

SEC. 2.[1] (a)(1) There is hereby created a corporation with the name Export-Import Bank of the United States which shall be an agency of the United States of America. * * *

(b) * * *

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

(i) the Bank is requested to provide a guarantee or insurance for the sale;

(ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;

(iii) section 490(e) of the Foreign Assistance Act of 1961 does not apply with respect to the purchasing country; and

(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and

(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

(i) be consistent with the anti-narcotics policy of the United States;

(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 481(e) of the Foreign Assistance Act of 1961); and

[1] 12 U.S.C. 635. For full text of this Act, see *Legislation on Foreign Relations Through 1997*, vol. III.

(iii) be made to a country with a democratic form of government.

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(8) National Drug Control Program

Executive Order 12880, November 16, 1993, 58 F.R. 60989, 21 U.S.C. 1502 note; amended by Executive Order 13008, June 3, 1996, 61 F.R. 28721

The Office of National Drug Control Policy has the lead responsibility within the Executive Office of the President to establish policies, priorities, and objectives for the Nation's drug control program, with the goal of reducing the production, availability, and use of illegal drugs. All lawful and reasonable means must be used to ensure that the United States has a comprehensive and effective National Drug Control Strategy. Therefore, by the authority bested in me as President by the Constitution and the laws of the United States of America, including the National Narcotics Leadership Act of 1988, as amended (21 U.S.C. 1501 *et seq.*), and in order to provide for the effective management of the drug abuse policies of the United States, it is hereby ordered as follows:

Sec. 1. GENERAL PROVISIONS. (a) Because the United States considers the operations of international criminal narcotics syndicates as a national security threat requiring an extraordinary and coordinated response by civilian and military agencies involved in national security, the Director of the Office of National Drug Control Policy (Director), in his role as the principal adviser to the National Security Council on national drug control policy (50 U.S.C. 402(f)), shall provide drug policy guidance and direction in the development of related national security programs.

(b) The Director shall provide oversight and direction for all international counternarcotics policy development and implementation, in coordination with other concerned Cabinet members, as appropriate.

(c) An Interagency Working Group (IWG) on international counternarcotics policy, chaired by the Office of National Drug Control Policy,[1] shall develop and ensure coordinated implementation of an international counternarcotics policy. The IWG shall report its activities and differences of views among agencies to the Director for review, mediation, and resolution with concerned Cabinet members, and if necessary, by the President.

(d) A coordinator for drug interdiction shall be designated by the Director to ensure that assets dedicated by Federal drug program agencies for interdiction are sufficient and that their use is properly integrated and optimized. The coordinator shall ensure that interdiction efforts and priorities are consistent with overall U.S. international counternarcotics policy.

(e) The Director shall examine the number and structure of command/control and drug intelligence centers operated by drug control program agencies involved in international counter-narcotics

[1] Executive Order 13008 (June 3, 1996; 61 F.R. 28721) struck out "Department of State" and inserted in lieu thereof "Office of National Drug Control Policy".

and suggest improvements to the current structure for consideration by the President and concerned members of the Cabinet.

(f) The Director, utilizing the services of the Drugs and Crime Data Center and Department of Justice Clearinghouse, shall assist in coordinating and enhancing the dissemination of statistics and studies relating to anti-drug abuse policy.

(g) the Director shall provide advice to agencies regarding ways to achieve efficiencies in spending and improvements to interagency cooperation that could enhance the delivery of drug control treatment and prevention services to the public. The Director may request agencies to provide studies, information, and analyses in support of this order.

Sec. 2. GOALS, DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL DRUG CONTROL PROGRAM. (a) *Budget Matters.* (1) In addition to the budgetary authorities and responsibilities provided to the Director by statute, 21 U.S.C. 1502, for those agency budget requests that are not certified as adequate to implement the objectives of the National Drug Control Strategy, the Director shall include in such certifications initiatives or funding levels that would make such requests adequate.

(2) The Director shall provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program. The recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.

(b) MEASUREMENT OF NATIONAL DRUG CONTROL STRATEGY OUTCOMES. (1) The National Drug Control Strategy shall include long-range goals for reducing drug use and the consequences of drug use in the United States, including burdens on hospital emergency rooms, drug use among arrestees, the extent of drug-related crime, high school dropout rates, the number of infants exposed annually to illicit drugs in utero, national drug abuse treatment capacity, and the annual national health care costs of drug use.

(2) The National Drug Control Strategy shall also include an assessment of the quality of techniques and instruments to measure current drug use and supply and demand reduction activities, and the adequacy of the coverage of existing national drug use instruments and techniques to measure the total illicit drug user population and groups at-risk for drug use.

(3) The Director shall coordinate an effort among the relevant drug control program agencies to assess the quality, access, management, effectiveness, and standards of accountability of drug abuse treatment, prevention, education, and other demand reduction activities.

(c) *Provision of Reports.* To the extent permitted by law, heads of departments and agencies with responsibilities under the National Drug Control Program shall make available to the Office of National Drug Control Policy, appropriate statistics, studies, and reports, pertaining to Federal drug abuse control.

(9) President's Drug Policy Council[1]

Executive Order 12992, March 15, 1996, 61 F.R. 11287, 21 U.S.C. 1502 note; amended by Executive Order 13023, November 6, 1996, 61 F.R. 57767

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Drug Policy Council ("Council").[1]

Sec. 2.[2] *Membership.* The Council shall comprise the:

(a) President, who shall serve as Chairman of the Council;
(b) Vice-President;
(c) Secretary of State;
(d) Secretary of the Treasury;
(e) Secretary of Defense;
(f) Attorney General;
(g) Secretary of the Interior;
(h) Secretary of Agriculture;
(i) Secretary of Health and Human Services;
(j) Secretary of Housing and Urban Development;
(k) Secretary of Transportation;
(l) Secretary of Education;
(m) Secretary of Veterans Affairs;
(n) Representative of the United States of America to the United Nations;
(o) Director of the Office of Management and Budget;
(p) Chief of Staff to the President;
(q) Director of National Drug Control Policy;
(r) Director of Central Intelligence;
(s) Assistant to the President for National Security Affairs;
(t) Counsel to the President;
(u) Chairman, Joint Chiefs of Staff;
(v) National Security Advisor to the Vice President; and
(w) Assistant to the President for Domestic Policy.

As applicable, the Council shall also comprise such other officials of the departments and agencies as the President may, from time to time, designate.

Sec. 3. *Meetings of the Council.* The President, or upon his direction, the Vice President, may convene meetings of the Council. The President shall preside over meetings of the Council, provided that in his absence, the Vice President will preside. The Council will meet at least quarterly.

Sec. 4. *Functions.* (a) The functions of the Council are to advise and assist the President in: (1) providing direction and oversight

[1] Executive Order 13023 (November 6, 1996; 61 F.R. 57767) renamed the council from "President's Council on Counter-Narcotics".

[2] Sec. 3 of Executive Order 13023 (November 6, 1996; 61 F.R. 57767) amended and restated sec. 2.

for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and (2) ensuring coordination among departments and agencies concerning implementation of the President's national drug control strategy.

(b) The Director of National Drug Control Policy will continue to be the senior drug control policy official in the executive branch and the President's chief drug control policy spokesman.

(c) In matters affecting national security interests, the Director of National Drug Control Policy shall work in conjunction with the Assistant to the President for National Security Affairs.

Sec. 5. *Administration.* (a) The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director of National Drug Control Policy or his representative, in carrying out its functions under this order.

(b) The staff of the Office of National Drug Control Policy, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(c) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice as the Council may request, to the extent permitted by law.

h. Security Assistance and Arms Sales Legislation

(1) Proposed Arms Sales to Jordan

Public Law 99–162 [S.J. Res. 228], 99 Stat. 937, approved November 25, 1985

JOINT RESOLUTION Relating to the proposed sales of arms to Jordan.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That prior to March 1, 1986, no letter of offer shall be valid with respect to any of the proposed sales to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems, that are described in the notification pursuant to section 36(b) of the Arms Export Control Act submitted to the Congress on October 21, 1985, unless direct and meaningful peace negotiations between Israel and Jordan are underway.

(2) Conditions on Arms Sales to Turkey

Partial Text of Public Law 94–104 [S. 2230], 89 Stat. 508, approved October 6, 1975

AN ACT To authorize appropriations for the Board for International Broadcasting for fiscal year 1976; and to promote improved relations between the United States, Greece, and Turkey, to assist in the solution of the refugee problem on Cyprus, and to otherwise strengthen the North Atlantic Alliance.

* * * * * * *

Sec. 2. (a)(1) The Congress reaffirms the policy of the United States to seek to improve and harmonize relations among the allies of the United States and between the United States and its allies, in the interest of mutual defense and national security. In particular, the Congress recognizes the special contribution to the North Atlantic Alliance of Greece and Turkey by virtue of their geographic position on the southeastern flank of Europe and is prepared to assist in the modernization and strengthening of their respective armed forces.

(2) The Congress further reaffirms the policy of the United States to alleviate the suffering of refugees and other victims of armed conflict and to foster and promote international efforts to ameliorate the conditions which prevent such persons from resuming normal and productive lives. The Congress, therefore, calls upon the President to encourage and to cooperate in the implementation of multilateral programs, under the auspices of the Secretary General of the United Nations, the United Nations High Commissioner for Refugees, or other appropriate international agencies, for the relief of and assistance to refugees and other persons disadvantaged by the hostilities on Cyprus pending a final settlement of the Cyprus refugee situation in the spirit of Security Council Resolution 361.

(b)(1) In order that the purposes of this Act may be carried out without awaiting the enactment of foreign assistance legislation for fiscal year 1976 programs—

(A) the President is authorized, notwithstanding section 620 of the Foreign Assistance Act of 1961, to furnish to the Government of Turkey those defense articles and defense services with respect to which contracts of sale were signed under section 21 or section 22 of the Foreign Military Sales Act on or before February 5, 1975, and to issue licenses for the transportation to the Government of Turkey of arms, ammunition, and implements of war (including technical data relating thereto): *Provided*, That such authorization shall be effective only while Turkey shall observe the cease-fire and shall neither increase its forces on Cyprus nor transfer to Cyprus any United States supplied implements of war: *Provided further*, That the authorities contained in this section shall not become effective unless and until the President determines and certifies to the Congress that the furnishing of defense articles and defense

services, and the issuance of licenses for the transportation of implements of war, arms and ammunition under this section are important to the national security interests of the United States;

(B) the President is requested to initiate discussions with the Government of Greece to determine the most urgent needs of Greece for economic and military assistance; and

(C) the President is requested to initiate discussions with the Government of Turkey concerning effective means of preventing the diversion of opium poppy into illicit channels.

(2) The President is directed to submit to the Speaker of the House of Representatives and to the Foreign Relations and Appropriations Committee of the Senate within sixty days after the enactment of this Act a report on discussions conducted under subsections (b)(1) (B) and (C), together with his recommendations for economic and military assistance to Greece for the fiscal year 1976.

(c)(1)[1] * * *

(2)[1] * * *

(3) Nothing in this section shall be construed as authorizing (A) military assistance to Turkey under chapter 2 of part II of the Foreign Assistance Act of 1961, or (B) sales, credits, or guaranties to or on behalf of Turkey under the Foreign Military Sales Act for the procurement of defense articles or defense services not determined by the President to be needed for the fulfillment of Turkey's North Atlantic Treaty Organization responsibilities.

(4) Pursuant to the provisions of this section, in the case of any letter of offer to sell any defense article or defense service pursuant to the Foreign Military Sales Act for $25,000,000 or more, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a statement containing (A) a brief description of the defense article or defense service to be offered, (B) the dollar amount of the proposed sale, (C) the United States Armed Force which is making the sale, and (D) the date on which any letter of offer to sell is to be issued. The letter of offer shall not be issued if the Congress, within twenty calendar days after receiving any such statement, adopts a concurrent resolution stating in effect that it objects to such proposed sale.

(5) This subsection shall become effective only upon enactment of foreign assistance legislation authorizing sales, credits, and guaranties under the Foreign Military Sales Act for fiscal year 1976.[2]

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[1] Subsecs. (1) and (2) amended sec. 620(x) of the Foreign Assistance Act of 1961.

[2] Such authorization became effective upon enactment of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 729), approved June 30, 1976.

(3) Emergency Security Assistance Act of 1973

Public Law 93–199 [H.R. 11088], 87 Stat. 836, approved December 26, 1973, as amended by Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978

AN ACT To provide emergency assistance authorizations for Israel and Cambodia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Security Assistance Act of 1973".

Sec. 2.[1] In addition to such amounts as may be otherwise authorized to be appropriated to the President for security assistance for the fiscal year 1974, there are hereby authorized to be appropriated to the President not to exceed $2,200,000,000 for emergency military assistance or foreign military sales credits, or for both as the President may determine, for Israel, of which sum amounts in excess of $1,500,000,000 may be used pursuant to this section or section 4 of this Act only if the President (1) determines it to be important to our national interest that Israel receive assistance hereunder exceeding $1,500,000,000, and (2) reports to Congress each such determination (if more than one) at least twenty days prior to date on which funds are obligated or expended under this Act in excess of such $1,500,000,000 limitation. The twenty-day requirement contained in the preceding sentence shall not apply if hostilities are renewed in the Middle East. The President shall include in his report the amount of funds to be used pursuant to the determination, the terms of the additional assistance under section 2 or section 4, and the justification for the determination. All information contained in the justification shall be public information except to the extent that the President concludes that publication would be incompatible with the security interests of the United States.

Sec. 3. Military assistance furnished out of funds appropriated under section 2 of this Act shall be furnished in accordance with all of the provisions applicable to military assistance under the Foreign Assistance Act of 1961 (75 Stat. 424; Public Law 87–195), as amended. Foreign military sales credits extended to Israel out of such funds shall be provided on such terms and conditions as the President may determine and without regard to the provisions of

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[1] FA Appropriation Act, 1974: "$2,200,000,000: *Provided,* That the funds appropriated in this paragraph shall be available only upon enactment into law of authorizing legislation: *Provided further,* That any part of any funds appropriated in this paragraph used to furnish military assistance shall be accounted for in accordance with section 108 of the Mutual Security Appropriation Act, 1956 (69 Stat. 438), as amended: *Provided further,* That of the funds appropriated under this paragraph, not more than $1,500,000,000 may be available for grant military assistance: *Provided further,* That none of the funds appropriated in this paragraph in excess of $1,700,000,000 shall be obligated unless the President determines such obligations will be in the national interest and provides Congress with detailed justifications and notification ten days prior to any such obligation of funds."

The FA Appropriation Act, 1974 required 10 days notification prior to any such obligation of funds.

the Foreign Military Sales Act (82 Stat. 1320; Public Law 90–629), as amended.

Sec. 4. At any time prior to June 30, 1974, the President is hereby authorized, within the limits of funds appropriated under section 2 of this Act for Israel, to release Israel from its contractual liability to pay for defense articles and defense services purchased or financed under the said Foreign Military Sales Act or under this Act during the period beginning October 6, 1973, and ending June 30, 1974, and such funds shall be used to reimburse current applicable appropriations, funds, and accounts of the Department of Defense for the value of such defense articles and defense services.

Sec. 5.[2] * * * [Repealed—1978]

Sec. 6. Of the funds appropriated pursuant to section 2, the President may use such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter.

NOTE.—On March 1, 1974, the President signed the following Memorandum (39 F.R. 10417; March 20, 1974):

DELEGATION OF FUNCTIONS AND ALLOCATION OF FUNDS RELATED TO EMERGENCY SECURITY ASSISTANCE FOR ISRAEL

Memorandum for the Secretary of State, the Secretary of Defense

THE WHITE HOUSE,
Washington, March 1, 1974.

You are hereby designated and empowered to exercise the following functions vested in the President by Public Law 93–199, the emergency Security Assistance Act of 1973, without the approval, ratification, or other action of the President.

1. Functions delegated to the Secretary of State:

(a) the function or reporting to the Congress any determination made by the President under Section 2 of the Act;

(b) the function conferred in Section 6 of the Act.

2. Functions delegated to the Secretary of Defense:

The function of providing military assistance or foreign military sales credits as determined by the President.

Pursuant to the authority contained in Public Law 93–240, the Foreign Assistance and Related Programs Appropriation Act, 1974, I hereby allocate from the appropriation for "Energy Security Assistance for Israel" to the Secretary of Defense, $2,200,000,000.00. This allocation is subject to the limitations imposed by the provisos in the provision appropriating these funds and subject to apportionment of the necessary funds by the Office of Management and Budget. I direct the Secretary of Defense to allocate to the Secretary of State such sums from the $2,200,000,000.00 as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter as authorized in Section 6 of Public Law 93–199, the Emergency Security Assistance Act of 1973.

This memorandum shall be published in the Federal Register.

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[2] Sec. 5, which required the Secretary of Defense to submit a report to the Congress on the effectiveness of the foreign military assistance program as it related to the Middle East conflict, was repealed by sec. 29(c)(3) of the International Security Assistance Act of 1978 (92 Stat. 747).

(4) Mutual Security Act of 1959, as amended

Partial text of Public Law 86–108 [H.R. 7500], 73 Stat. 246, approved July 24, 1959

AN ACT To amend further the Mutual Security Act of 1954, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mutual Security Act of 1959".

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NOTE.—Except for Chapters V, VI, and Sections 702 and 703, the Mutual Security Act of 1959 consists of amendments to the Mutual Security Act of 1954, as amended, and to other laws.

NOTE.—Section 501(b), which related to international cooperation in health, was repealed by Sec. 602 of the Mutual Security Act of 1960. Section 642 of the Foreign Assistance Act of 1961 repealed Sec. 501(a), Chapter VI, and Sections 702 and 703 of the Mutual Security Act of 1959, as amended.

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CHAPTER V—INTERNATIONAL COOPERATION IN HEALTH; COLOMBO PLAN COUNCIL FOR TECHNICAL COOPERATION

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COLOMBO PLAN COUNCIL FOR TECHNICAL COOPERATION

Sec. 502.[1] To enable the United States to maintain membership in the Colombo Plan Council for Technical Cooperation, there is hereby authorized to be appropriated from time to time to the Department of State such sums as may be necessary for the payment by the United States of its share of the expenses of the Colombo Plan Council for Technical Cooperation.

[1] 22 U.S.C. 1896b.

(5) Mutual Security Act of 1954, as amended

Retained provisions of Public Law 83–665 [H.R. 9678], 68 Stat. 832, approved August 26, 1954, as amended

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Sec. 402.[1] * * * [Repealed—1996]

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Sec. 408.[2] North Atlantic Treaty Organization.—(a) In order to provide for United States participation in the North Atlantic Treaty Organization, there is hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its share of the expenses of the Organization and all necessary salaries and expenses of the United States permanent representative to the Organization, of such persons as may be appointed to represent the United States in the subsidiary bodies of the Organization or in any multilateral organization which participates in achieving the aims of the North Atlantic Treaty, and of their appropriate staffs, and the expenses of participation in meetings of such organizations, including salaries, expenses, and allowances of personnel and dependents as authorized by the Foreign Service Act of 1980[3] and allowances and expenses as provided in section 6 of the Act of July 30, 1946 (22 U.S.C. 287r).

(b) The United States permanent representative to the North Atlantic Treaty Organization shall be appointed by the President by and with the advice and consent of the Senate and shall hold office at the pleasure of the President. Such representative shall have the rank and status of ambassador extraordinary and plenipotentiary and shall be a chief of mission under the Foreign Service Act of 1980.[4]

(c) Persons detailed to the international staff of the North Atlantic Treaty Organization in accordance with section 628 of the Foreign Assistance Act of 1961 who are members of the Foreign Service serving under limited appointments may serve for periods of

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[1] Formerly at 22 U.S.C. 1922. Sec. 228 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 963) repealed sec. 402, relating to earmarking of funds.

[2] 22 U.S.C. 1928. For FY1998, see also sec. 1221 of the National Defense Authorization Act for Fiscal Year 1998, relating to defense burdensharing, in this volume.

Sec. 8(h) of Public Law 85–141 (71 Stat. 361), eliminated provisions authorizing appropriations of not more than $3,200,000 for the fiscal year 1955.

[3] The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(6) of Public Law 96–465 (94 Stat. 2161).

[4] The reference to the chief of mission under the Foreign Service Act of 1980 was substituted in lieu of a reference to the chief of mission, class 1, within the meaning of the Foreign Service Act of 1946 by sec. 2206(6) of Public Law 96–465 (94 Stat. 2161).

more than five years[5] notwithstanding the limitation in section 309 of the Foreign Service Act of 1980.[6]

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Sec. 417.[7] **Irish Counterpart.**—Pursuant to section 115(b)(6) of the Economic Cooperation Act of 1948, as amended, the disposition within Ireland of the unencumbered balance, in the amount of approximately 6,000,000 Irish pounds, of the special account of Irish funds established under article IV of the Economic Cooperation Agreement between the United States of America and Ireland, dated June 28, 1948, for the purposes of—

(1) scholarship exchange between the United States and Ireland;

(2) other programs and projects (including the establishment of an Agricultural Institute) to improve and develop the agricultural production and marketing potential of Ireland and to increase the production and efficiency of Irish industry; and

(3) development programs and projects in aid of the foregoing objectives, is hereby approved, as provided in the agreement between the Government of the United States of America and the Government of Ireland, dated June 17, 1954.

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Sec. 502.[8] **Use of Foreign Currency.**—(a) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, proceeds of sales made under section 550 of the Mutual Security Act of 1951, as amended, shall remain available and shall be used for any purposes of this Act, giving particular regard to the following purposes—

(1) for providing military assistance to nations or mutual defense organizations eligible to receive assistance under this Act;

(2) for purchase of goods or services in friendly nations;

(3) for loans, under applicable provisions of this Act, to increase production of goods or services, including strategic materials, needed in any nation with which an agreement was negotiated, or in other friendly nations, with the authority to use currencies received in repayment for the purposes stated in this section or for deposit to the general account of the Treasury of the United States;

(4) for developing new markets on a mutually beneficial basis;

(5) for grants-in-aid to increase production for domestic needs in friendly countries; and

(6) for purchasing materials for United States stockpiles.

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[5] Sec. 205(h) of Public Law 86–108 (73 Stat. 250), substituted "five years" for "four years" in subsec. (c).

[6] Sec. 2206(6) of Public Law 96–465 (94 Stat. 2161) substituted the words to this point beginning with "section 628 * * *" in lieu of text which made reference to sec. 529 of the Mutual Security Act of 1954 and to sec. 522 of the Foreign Service Act of 1946.

[7] 22 U.S.C. 1937.

[8] 22 U.S.C. 1754.

(b)[9] (1)(A) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law—

(i) local currencies owned by the United States which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961 and of the requirements of the United States Government in payment of its obligations outside of the United States, as such requirements may be determined from time to time by the President; and

(ii) any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance established under the authority of subchapter 1 of chapter 57 of title 5 of the United States Code for employees of the United States Government while traveling in a foreign country, whichever is greater, exclusive of the actual cost of transportation;

shall be made available to Members and employees of the Congress for their local currency expenses when authorized as provided in subparagraph (B).

(B) The authorization required for purposes of subparagraph (A) may be provided—

(i) by the Speaker of the House of Representatives in the case of a Member or employee of the House;

(ii) by the chairman of a standing or select committee of the House of Representatives in the case of a member or employee of that committee;

(iii) by the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, in the case of a Member or employee of the Senate;

(iv) by the chairman of a standing, select, or special committee of the Senate in the case of a member or employee of that committee or of an employee of a member of that committee; and

(v) by the chairman of a joint committee of the Congress in the case of a member or employee of that committee.

(C) Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

(2) On a quarterly basis, the chairman of each committee of the House of Representatives or the Senate and of each joint committee of the Congress (A) shall prepare a consolidated report (i) which itemizes the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, stating the purposes of the expenditures including per diem (lodging and meals), transportation, and other purposes, and (ii) which shows the total itemized expenditures, by such committee and by each member or employee of such committee (including in

[9] Subsec. (b) was amended and restated by sec. 22(a) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 742). Sec. 22(b) of the same Act stated that this section shall take effect on the date of enactment of this Act, "notwithstanding section 30 of this Act." For text of sec. 30, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

the case of a committee of the Senate, each employee of a member of the committee who received an authorization under paragraph (1) from the chairman of the committee); and (B) shall forward such consolidated report to the Clerk of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Chief Administrative Officer[10] of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after the report is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of the committee, omit such information as would identify the foreign countries in which members and employees of that committee traveled.

(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Chief Administrative Officer[10] of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such reports shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or if the group does not include a Member, by the senior employee in the group. Each report submitted pursuant to this subparagraph shall be open to public inspection.

(B) On a quarterly basis, the Clerk of the House of Representatives and the Secretary of the Senate shall each prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding quarter by each Member and employee or by each group in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.

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Sec. 514.[11] International Educational Exchange Activities.—Foreign currencies or credits owed to or owned by the United States, where arising from this act or otherwise, shall, upon

[10] Sec. 218(2) of Public Law 104–184 (110 Stat. 1747) struck out "Clerk" the second place it appears in the first sentences of subsec. (b)(2) and subsec. (b)(3)(A), and inserted in lieu thereof "Chief Administrative Officer".

[11] 22 U.S.C. 1766.

a request from the Secretary of State certifying that such funds are required for the purpose of international educational exchange activities under programs authorized by section 32(b)(2) of the Surplus Property Act of 1944, as amended, be reserved by the Secretary of the Treasury for sale to the Department of State for such activities on the basis of the dollar value at the time of the reservation.

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Sec. 523. Coordination With Foreign Policy.—(a) * * *

(b) * * *

(c) * * *

(d)[12] Whenever the President determines that the prevention of improper currency transactions[13] in a given country requires it, he may direct the chief of the United States diplomatic mission there to issue regulations applicable to members of the Armed Forces and officers and employees of the United States Government, and to contractors with the United States Government and their employees, governing the extent to which their pay and allowances received and to be used in that country shall be paid in local currency. Notwithstanding any other law, United States Government agencies are authorized and directed to comply with such regulations.

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Sec. 536.[14] Joint Commission on Rural Reconstruction in China.—The President is authorized to continue to participate in the Joint Commission on Rural Reconstruction in China and to appoint citizens of the United States to the Commission.

[12] 22 U.S.C. 1783(d). Sec. 401(f) of Public Law 86–472 (74 Stat. 139) added subsec. (d).

[13] Section 707 of the FA Act of 1961 substituted the words "prevention of improper currency transactions" in lieu of "achievement of United States foreign policy objectives".

[14] 22 U.S.C. 1796.

(6) Notice to Congress of Certain Transfers of Defense Articles and Defense Services[1]

Partial text of Public Law 80–253 [National Security Act of 1947, S. 758], 61 Stat. 495, approved July 26, 1947, as amended by Public Law 99–569 [Intelligence Authorization Act for Fiscal Year 1987, S. 2368], 100 Stat. 3190, approved November 14, 1986; Public Law 102–88 [Intelligence Authorization Act, Fiscal Year 1991; H.R. 1455], 105 Stat. 429, approved August 14, 1991; and by Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993

AN ACT To promote the national security by providing for a Secretary of Defense; for a National Military Establishment; for a Department of the Army, a Department of the Navy, and a Department of the Air Force; and for the coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security.

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

SHORT TITLE

That this Act may be cited as the "National Security Act of 1947".

* * * * * * *

NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 505.[2] (a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services,[3] exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this title.[4]

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

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[1] See also *Legislation on Foreign Relations Through 1997,* vol. IV.

[2] 50 U.S.C. 415. Sec. 602(a)(1) of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 441), redesignated former sections 502 and 503 as sections 504 and 505. This section was originally added by sec. 602 of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99–569; 100 Stat. 3190).

For other sections of title V of the National Security Act of 1947, as amended, see *Legislation on Foreign Relations Through 1997,* vol. IV.

[3] Sec. 604 of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 445), inserted ", or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services,".

[4] Sec. 602(c)(2) of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 444), struck out "section 501 of this Act", and inserted in lieu thereof "this title".

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(a)[5] of that title), or the Federal Property and Administrative Services Act of 1949, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms "defense articles" and "defense services" mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121);

(3) the term "transfer" means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term "value" means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

* * * * * * *

[5] Sec. 828(d)(1) of Public Law 103–160 (107 Stat. 1715) struck out "section 7307(b)(1)" and inserted in lieu thereof "section 7307(a).

i. Development Assistance Legislation

(1) Bangladesh Disaster Assistance Act of 1988

Public Law 100–576 [H.R. 5389], 102 Stat. 2897, approved October 31, 1988

AN ACT Concerning disaster assistance for Bangladesh.

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

SECTION 1.[1]SHORT TITLE.

This Act may be cited as the "Bangladesh Disaster Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) as a result of the 1988 floods, two-thirds of Bangladesh has been inundated with flood waters;

(2) over 30 million people in Bangladesh are homeless, over 2000 dead, tens of thousands ill, and potentially millions at risk of waterborne disease and epidemic because of lack of safe water and overcrowding;

(3) transportation, communications, and normal commerce in Bangladesh have been seriously interrupted, with a potential cost of replacing destroyed or damaged infrastructure of $500,000,000;

(4) agricultural lands have been flooded, with a potential crop loss of nearly $1,000,000,000;

(5) the people of the United States have respected and generously supported the efforts of the people of Bangladesh to maintain their independence, promote equitable economic growth, and strive for political pluralism and greater democracy; and

(6) the Government of Bangladesh has taken quick action to cope with this disaster, one of the most serious in the history of Bangladesh, but must rely on a generous response from the international community for emergency assistance and, even more importantly, for the expertise and resources needed to prevent the continual recurrence of such disastrous floods.

SEC. 3. COMMENDATION OF AND SUPPORT FOR THE PEOPLE OF BANGLADESH.

The Congress—

(1) commends the courage and resourcefulness demonstrated by the people of Bangladesh in response to the 1988 floods;

(2) commends the President for the generous provision by the United States of emergency assistance for Bangladesh;

[1] 7 U.S.C. 1691 note.

(3) commends United States private and voluntary organizations, international organizations, foreign governments, and others for their compassionate response to this natural disaster;

(4) expresses its support for the people of Bangladesh at this most critical time;

(5) declares its willingness to work with the President to provide generous levels of emergency humanitarian assistance to the people of Bangladesh;

(6) declares its willingness to work with the Government of Bangladesh and with private and voluntary organizations to ensure that emergency assistance quickly reaches those most in need; and

(7) declares its willingness to work with the international community to seek the means to prevent a recurrence of such natural disasters, and urges the President to promote a regional solution designed to prevent a recurrence of such natural disasters.

SEC. 4. EMERGENCY ASSISTANCE FOR BANGLADESH.

(a) USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES FOR DISASTER ASSISTANCE.—(1)[2] * * *

(2)[3] Food for Development agreements entered into under title III of that Act before the date of enactment of this Act may be amended in order to implement the amendment made by paragraph (1).

(3) Pending amendment pursuant to paragraph (2) Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement.

(b) ADDITIONAL FUNDS FOR DISASTER ASSISTANCE FOR BANGLADESH.—It is the sense of the Congress that, in order to provide additional resources for disaster assistance for the victims of the 1988 floods in Bangladesh, not less than $100,000,000 of the local currencies generated under Food for Development agreements with the Government of Bangladesh should be used for the disaster relief, rehabilitation, and reconstruction assistance purposes authorized by the amendment made by subsection (a)(1).

(c) REGULAR ASSISTANCE PROGRAMS TO BE MAINTAINED.—Disaster assistance provided for Bangladesh by the United States because of the 1988 floods should be in addition to the regularly programmed assistance for that country for fiscal year 1989 under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and titles I, II, and III of the Agriculture Trade Development and Assistance Act of 1954 (relating to food assistance); and the level of such regularly programmed assistance.

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[2] Sec. 4(a)(1) amended sec. 301 of the Agricultural Trade Development and Assistance Act of 1954, which was subsequently amended by title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

[3] 7 U.S.C. 1727 note.

(d) EXTENSION OF PERIOD FOR USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES.—It is the sense of the Congress that the period, during which funds accruing under Food for Development agreements with the Government of Bangladesh must be used, should be extended from September 30, 1989, to at least September 30, 1990.

SEC. 5. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Congress a report on efforts by the international community and the governments of the region to develop regional programs for the Ganges basin and the Brahmaputra basin that are designed—

(1) to ensure an equitable and predictable supply of water in the dry season; and

(2) to promote better flood control mechanisms to mitigate in the mid-term, and prevent in the long-term, floods as severe as the 1988 floods in Bangladesh.

(b) SPECIFIC REQUIREMENTS.—The report required by subsection (a)—

(1) shall describe what efforts have been made by international organizations and other international institutions, by bilateral and multilateral assistance donors, and by countries in the region, to achieve the objectives set forth in subsection (a);

(2) shall describe the feasibility studies, planning studies, or actual projects that are in preparation or have been completed to achieve those objectives;

(3) shall analyze the potential costs, the technology obstacles (such as those presented by the earthquakes to which the region is prone), and the political problems, that stand in the way of effective flood control in the Ganges basin and the Brahmaputra basin;

(4) shall describe the environmental causes of the flood, particularly deforestation and soil erosion; and

(5) shall describe the efforts made, and the efforts proposed to be made, by the President to promote a regional approach to achieving the objectives set forth in subsection (a).

SEC. 6. OFFICE OF TECHNOLOGY ASSESSMENT.

It is the sense of the Congress that the Office of Technology Assessment—

(1) should cooperate in the effort described in section 5; and

(2) in particular, should provide to the Department of State and the Congress—

(A) a synopsis of all current studies and reports—

(i) on flood control in the Ganges basin and the Brahmaputra basin, or

(ii) on state-of-the-art technology available for the construction and maintenance of flood control projects, and

(B) any cost benefit analysis of efforts to improve water availability in the dry season and to mitigate or prevent severe flooding.

(2) International Cooperation to Protect Biological Diversity

Public Law 100–530 [H.J. Res. 648], 102 Stat. 2651, approved October 25, 1988

JOINT RESOLUTION To encourage increased international cooperation to protect biological diversity.

Whereas habitat destruction is a main cause of the accelerating extinction of animal and plant species;

Whereas increased international cooperation is essential to protect species threatened with extinction and to halt the loss of unique and irreplaceable ecosystems; and

Whereas the United States has strongly supported efforts to convene an international convention for preservation of the Earth's biological diversity: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] STATEMENT OF POLICIES.

The Congress—

(1) supports the United States efforts, consistent with section 119(g) of the Foreign Assistance Act of 1961, to initiate discussions to develop an international agreement to preserve biological diversity; and

(2) calls upon the President to continue exerting United States leadership in order to achieve the earliest possible negotiation of an international convention to conserve the Earth's biological diversity, including the protection of a representative system of ecosystems adequate to conserve biological diversity.

SEC. 2.[2] REPORT.

Not later than one year after the date of the enactment of this joint resolution, the President shall submit a report to the Congress on progress toward the goal of negotiating the international convention described in paragraph (2) of section 1.

[1] 22 U.S.C. 2151q note.
[2] 22 U.S.C. 2151q note.

(3) Control of Swine Influenza

Partial text of Public Law 94–302 [H.R. 9721], 90 Stat. 591, approved May 31, 1976

AN ACT To provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

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

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TITLE III—SWINE INFLUENZA

Sec. 301.[1] (a) The Congress finds and declares that—

(1) the problems posed by swine influenza transcend national and political boundaries;

(2) no one country, or even one portion of the world, can singularly undertake the search for a worldwide solution to the problems posed by swine influenza;

(3) the global nature of swine influenza demands international cooperation and coordination in the investigation and planning for effective control of swine influenza;

(4) the Public Health Service of the United States has invited the World Health Organization of the United Nations and its International Influenza Reference Centers to participate in the investigation and planning for the control of swine influenza;

(5) special collaboration has already been established among the United States, the United Kingdom, and Canada for mutual participation in the investigation and planning for the control of swine influenza;

(6) the United States Department of State and the Public Health Service of the United States have joint programs to provide information to foreign countries on the nature and extent of swine influenza and the methods necessary to control it; and

(7) the technology of the United States for the surveillance of virus disease and vaccine production should be made available to foreign countries.

(b) It is the sense of the Congress that the President should furnish assistance to foreign countries and international organizations for the investigation and planning for the control of swine influenza.

[1] 22 U.S.C. 2101 note.

j. Use of Foreign Currencies [1]

(1) 31 U.S.C. 1306 [2]

Title 31, U.S.C. * * *

§ 1306. Use of foreign credits

(a) IN GENERAL.—Foreign credits (including currencies) owed to or owned by the United States may be used by any agency for any purpose for which appropriations are made for the agency for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), but only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency.

(b) EXCEPTION TO REIMBURSEMENT REQUIREMENT.—Credits described in subsection (a) that are received as exchanged allowances, or as the proceeds of the sale of personal property, may be used in whole or partial payment for the acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

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[1] For text on Use of Local Currencies, see sec. 40 of the FA Act of 1973 (Public Law 93–189; 87 Stat. 714), and sec. 502 of the Mutual Security Act of 1954, as amended (Public Law 83–665; 68 Stat. 832), in *Legislation on Foreign Relations Through 1997*, vol. I–A, and page 305 in this volume, respectively.

[2] Sec. 1306, title 31, was originally enacted as sec. 1415 of the Supplemental Appropriation Act, 1953, and codified at 31 U.S.C. 724. Public Law 97–258 (96 Stat. 877) revised and recodified title 31 United States Code. Sec. 612(a) of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (sec. 101(f) of title I of Public Law 104–208; 110 Stat. 3009), amended and restated sec. 1306. It formerly read as follows:

"Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.".

(2) General Government Matters Appropriation Act, 1962

Partial text of Public Law 87–125 [H.R. 7577] 75 Stat. 268, 283, approved August 3, 1961

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TITLE V—GENERAL PROVISIONS

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Sec. 508. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662),[1] foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits),[2] only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or in part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury: *Provided further*, That nothing in section 1415 of the Act of July 15, 1952, or in this section shall be construed to prevent the making of new or the carrying out of existing contracts, agreements, or executive agreements for periods in excess of one year, in any case where such contracts, agreements, or executive agreements for periods in excess of one year were permitted prior to the enactment of this Act under section 32(b)(2) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), and the performance of all such contracts, agreements, or executive agreements shall be subject to the availability of appropriations for the purchase of credits as provided by law.

* * * * * * *

[1] Sec. 1306, title 31, was originally enacted as sec. 1415 of the Supplemental Appropriation Act, 1953, and codified at 31 U.S.C. 724. Public Law 97–258 (96 Stat. 877) revised and recodified title 31, including changes to the text and U.S. Code citation to this provision.

[2] The words "and for liquidation of obligations legally incurred against such credits prior to July 1, 1953" appeared at this point in previous General Government Matters Appropriation Acts, 1956–1959, and the Supplemental Appropriations Act, 1955.

(3) Use of Reserved Coins and Currencies of Foreign Countries

Title 31, U.S.C. * * *

§ 5303.[1] Reserved coins and currencies of foreign countries

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

[1] Sec. 5303, title 31, was originally enacted as Public Law 89–677 (80 Stat. 955) and codified at 31 U.S.C. 938. Public Law 97–258 (96 Stat. 877) revised and recodified title 31, including changes to the text and U.S. Code citation to this provision.

k. Merchant Marine Act of 1936, as amended

Act of June 29, 1936, Chapter 858 [H.R. 8355] 49 Stat. 1985, as amended

AN ACT To further the development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense, to repeal certain former legislation, and for other purposes.

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

* * * * * * *

Sec. 901.[1] * * *

(b)[2] (1)[3] Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: *Provided,* That the provisions of this subsection may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States, or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions of section 901(b)(1)[4] and so notifies the appropriate agency or agencies: *And provided further,* That the provisions of this subsection shall not apply to cargoes carried in vessels of the Panama Canal Company. Nothing herein shall repeal or otherwise modify the provisions of Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500)[5] as amended."[6] For purposes of this section, the term "privately owned United States-flag commercial vessels" shall not be deemed to include any vessel which, subsequent to the date

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[1] 46 U.S.C. app. 1241.

[2] Public Law 83–664 (68 Stat. 832) added subsec. (b).

[3] Sec. 27(a) of Public Law 91–469 (Merchant Marine Act of 1970) redesignated subsec. (b) as subsec. (b)(1).

[4] Sec. 27(b) of Public Law 91–469 inserted "section 901(b)(1)" in lieu of "section 901(b)".

[5] 15 U.S.C. 616a.

[6] See also sec. 603 of the FA Act of 1961, in *Legislation on Foreign Relations Through 1997,* vol. I–A.

of enactment of this amendment, shall have been either (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of three years: *Provided, however,* That the provisions of this amendment shall not apply where, (1) prior to the enactment of this amendment, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under United States registry, and such vessel is so documented on its first arrival at a United States port not later than one year subsequent to the date of the enactment of this amendment, or (2) where prior to the enactment of this amendment, the owner of a vessel under United States registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under United States registry on its first arrival at a United States port not later than one year subsequent to the date of the enactment of this amendment.[7]

(2)[8] Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Transportation.[9] The Secretary of Transportation[9] shall review such administration and shall annually report to the Congress with respect thereto.

Sec. 901a.[10, 11] The requirements of section 901(b)(1) of this Act and the Joint Resolution of March 26, 1934 (46 U.S.C. App. 1241–1), shall not apply to any export activities of the Secretary of Agriculture or the Commodity Credit Corporation—

(1) under which agricultural commodities or the products thereof acquired by the Commodity Credit Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or the products thereof at prevailing world market prices;

(2) under which payments are made available to United States exporters, users, or processors or, except as provided in section 901b, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

(3) under which commercial credit guarantees are blended with direct credits from the Commodity Credit Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or the products thereof;

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[7] The last part of this subsection, beginning with the words "For purposes of this section," was added by Public Law 87–266.

[8] Sec. 27(c) of Public Law 91–469 added subsec. (2).

[9] The references to the Secretary of Transportation were substituted in lieu of references to the Secretary of Commerce by sec. 12(126) of Public Law 97–31 (95 Stat. 165).

[10] 46 U.S.C. app. 1241e.

[11] Sec. 1142 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1490), added secs. 901a thru 901k.

(4) under which credit or credit guarantees for not to exceed 3 years are extended by the Commodity Credit Corporation to finance or guarantee export sales of United States agricultural commodities or the products thereof; or

(5) under which agricultural commodities or the products thereof owned or controlled by or under loan from the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services, but only if such materials, goods, equipment, or services are of a value at least equivalent to the value of the agricultural commodities or products exchanged or bartered therefor (determined on the basis of prevailing world market prices at the time of the exchange or barter), but nothing in this subsection shall be construed to exempt from the cargo preference provisions referred to in section 901b any requirement otherwise applicable to the materials, goods, equipment, or services imported under any such transaction.

SHIPMENT REQUIREMENTS FOR CERTAIN EXPORTS SPONSORED BY THE DEPARTMENT OF AGRICULTURE

Sec. 901b.[11, 12] (a)(1) In addition to the United States requirement for flag carriage of a percentage of gross tonnage imposed by section 901(b)(1) of this Act, 25 percent of the gross tonnage of agricultural commodities or the products thereby specified in subsection (b) shall be transported on United States-flag commercial vessels.

(2) In order to achieve an orderly and efficient implementation of the requirement of paragraph (1)—

(A) an additional quantity equal to 10 percent of the gross tonnage referred to in paragraph (1) shall be transported in United States-flag vessels in calendar year 1986;

(B) an additional quantity equal to 20 percent of the gross tonnage shall be transported in such vessels in calendar year 1987; and

(C) an additional quantity equal to 25 percent of the gross tonnage shall be transported in such vessels in calendar year 1988 and in each calendar year thereafter.

(b) This section shall apply to an export activity of the Commodity Credit Corporation or the Secretary of Agriculture—

(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(3) carried out under the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1);

(4) under which agricultural commodities or the products thereof are—

(A) donated through foreign governments or agencies, private or public, including intergovernmental organizations; or

(B) sold for foreign currencies or for dollars on credit terms of more than ten years;

[12] 46 U.S.C. app. 1241f.

(5) under which agricultural commodities or the products thereof are made available for emergency food relief at less than prevailing world market prices;

(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser for the purpose of enabling the purchaser to obtain United States agricultural commodities or the products thereof in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at United States port; or

(7) under which the agricultural commodities owned or controlled by or under loan for the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, other than export activities described in section 901a (5).

(c)(1) The requirement for United States-flag transportation imposed by subsection (a) shall be subject to the same terms and conditions as provided in section 901(b) of this Act.

(2)[13] In order to provide for effective and equitable administration of the cargo preference laws the calendar year for the purpose of compliance with minimum percentage requirements shall be for 12 month periods commencing April 1, 1986.

(3)[13] (A) Subject to subparagraph (B), in administering sections 901(b) and 901b (46 U.S.C. App. 1241(b) and 1241f), and, subject to subparagraph (B) of this paragraph, consistent with those sections,[14] the Commodity Credit Corporation shall take such steps as may be necessary and practicable without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 25 percent[15] of the bagged, processed, or fortified commodities furnished pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1751 et seq.).

(B)[16] In carrying out this paragraph, there shall first be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of documentation of the vessel and there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for United States-flag transportation under section 901(b) and this section shall not apply to commodities allocated under subparagraph (A) to the Great Lakes port range, and commodities allocated under subparagraph (A) to that port range may not be reallocated or diverted

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[13] Sec. 1525 of the Agricultural Development and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3667) struck out subpar. "(A)" in par. (2); struck out subpar. (B), and inserted new pars. (3), (4), and (5). Subparas. (A) and (B) were further amended by Public Law 104–239 (see notes below), para. (4) was struck out and para. (5) was redesignated as para. (4).

[14] Sec. 17(a)(1)(A) of the Maritime Security Act of 1996 (Public Law 104–239; 110 Stat. 3138) struck out "and consistent with those sections," and inserted in lieu thereof "and, subject to subparagraph (B) of this paragraph, consistent with those sections,".

[15] Sec. 17(a)(1)(B) of the Maritime Security Act of 1996 (Public Law 104–239; 110 Stat. 3139) struck out "50 percent" and inserted in lieu thereof "25 percent".

[16] Sec. 17(a)(2) of the Maritime Security Act of 1996 (Public Law 104–239; 110 Stat. 3139) struck out subpara. (B) and added new subparas. (B) and (C). Former subpara. (B) read as follows:

"(B) In carrying out this paragraph, the Commodity Credit Corporation shall not allocate to the Great Lakes port range in any year a percentage share of commodities referred to in subparagraph (A) that is greater than the share experienced by that port range in 1984, as determined by the Secretary of Agriculture.".

to another port range to meet those requirements to the extent that the total tonnage of commodities to which subparagraph (A) applies that is furnished and transported from the Great Lakes port range is less than 25 percent of the total annual tonnage of such commodities furnished.

(C)[16] In awarding any contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), each agency or instrumentality—

(i) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

(ii) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel (as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995)), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

(4)[13, 17] Any determination of nonavailability of United States-flag vessels resulting from the application of this subsection shall not reduce the gross tonnage of commodities required by sections 901(b) and 901b to be transported on United States-flag vessels.

(d) As used in subsection (b), the term "export activity" does not include inspection or weighing activities, other activities carried out for health or safety purposes, or technical assistance provided in the handling of commercial transactions.

(e)(1) The prevailing world market price as to agricultural commodities or the products thereof shall be determined under section 901a through 901d in accordance with procedures established by the Secretary of Agriculture. The Secretary shall prescribe such procedures by regulation, with notice and opportunity for public comment, pursuant to section 553 of title 5, United States Code.

(2) In the event that a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required in order to determine whether a barter or exchange transaction is subject to subsection (b)(6) or (b)(7), such determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate Federal agencies.

MINIMUM TONNAGE

Sec. 901c.[11, 18] (a)(1) For fiscal year 1986 and each fiscal year thereafter, the minimum quantity of agricultural commodities to be exported under programs subject to section 901b shall be the aver-

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[17] Sec. 17(b) of the Maritime Security Act of 1996 (Public Law 104–239 (110 Stat. 3139) struck out para. (4) and redesignated para. (5) as para. (4). Former para. (4) had read as follows:

"(4)[13] Amounts of cargo allocated to ports in the Great Lakes port range pursuant to paragraph (3) shall not be exported from a different port range except as necessary to meet United States-flag transportation requirements of sections 901(b) and 901b, in which case within the same year the Commodity Credit Corporation shall take such steps as are necessary and practicable without detriment to any port range to ensure the export from the Great Lakes port range of an amount of tonnage of commodities referred to in paragraph (3)(A) that is not required to be transported on United States-flag vessels, that is equal to the amount of tonnage diverted for export from other port ranges.".

[18] 46 U.S.C. app. 1241g.

age of the tonnage exported under such programs during the base period defined in subsection (b), discarding the high and low years.

(2) The President may waive the minimum quantity for any fiscal year required under paragraph (1) if he determines and reports to the Congress, together with his reasons, that such quantity cannot be effectively used for the purposes of such programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons which include the unavailability of funds.

(b) The base period utilized for computing the minimum tonnage quantity referred to in subsection (a) for any fiscal year shall be the five fiscal years beginning with the sixth fiscal year preceding such fiscal year and ending with the second fiscal year preceding such fiscal year.

FINANCING OF SHIPMENT OF AGRICULTURAL COMMODITIES IN UNITED STATES-FLAG VESSELS

Sec. 901d.[11, 19] (a) The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year which result from the application of section 901b.

(b) If in any fiscal year the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Department of Agriculture and the Commodity Credit Corporation on exports of agricultural commodities and products thereof under the agricultural export programs specified in section 901b(b) exceeds 20 percent of the value of such commodities and products and the cost of such ocean freight and ocean freight differential on which obligations are incurred by such Department and Corporation during such year, the Secretary of Transportation shall reimburse the Department of Agriculture and the Commodity Credit Corporation for the amount of such excess. For the purpose of this subsection, commodities shipped from the inventory of the Commodity Credit Corporation shall be valued as provided in section 403(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(b)).

(c) For the purpose of meeting those expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue to the Secretary of the Treasury such obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of Transportation with the approval of the Secretary of the Treasury. Such obligations shall be at a rate of interest as determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such obligations during the month preceding the issuance of such obligations of the Secretary of Transportation. The Secretary of the Treasury shall purchase any obligations of the Secretary of Transportation issued under this subsection and, for the purpose of purchasing such obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of

[19] 46 U.S.C. app. 1241h.

title 31, United States Code, after the date of the enactment of this Act and the purposes for which securities may be issued under such chapter are extended to include any purchases of the obligations of the Secretary of Transportation under this subsection. All redemptions and purchases by the Secretary of the Treasury of the obligations of the Secretary of Transportation shall be treated as public-debt transactions of the United States.

(d) There is authorized to be appropriated annually for each fiscal year, commencing with the fiscal year beginning October 1, 1986, an amount sufficient to reimburse the Secretary of Transportation for the costs, including administrative expenses and the principal and interest due on the obligations to the Secretary of the Treasury incurred under this section. Reimbursement of any such costs shall be made with appropriated funds, as provided in this section, rather than through cancellation of notes.

(e) Notwithstanding the provisions of this section, in the event that the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 901b(a), the Secretary of Transportation shall so notify the Congress within 10 working days of the discovery of such insufficiency.

AUTHORIZATION OF APPROPRIATIONS

Sec. 901e.[11, 20] There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 901a through 901k.

TERMINATION OF SECTIONS 901a THROUGH 901k

Sec. 901f.[11, 21] The operation of section 901a through 901k shall terminate 90 days after the date on which a notification is made pursuant to section 901d(e), except with respect to shipments of agricultural commodities and products subject to contracts entered into before the expiration of such 90-day period, unless within such 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 901b (a) and 901d (a) and (b). In the event of termination under this section, nothing in sections 901a through 901d shall be construed as exempting export activities from or subjecting export activities to the cargo preference laws except to the extent those activities are exempt under section 4(b) of Public Law 95–501 (7 U.S.C. 1707a(b)). In the event of termination under this section, the 50 percent requirement in section 901(b) of the Merchant Marine Act, 1936 shall be in full effect.

NATIONAL ADVISORY COMMISSION ON AGRICULTURAL EXPORT TRANSPORTATION POLICY

Sec. 901g.[11, 22] (a) There is hereby established an advisory commission to be known as the National Advisory Commission on Agri-

[20] 46 U.S.C. app. 1241i.
[21] 46 U.S.C. app. 1241j.
[22] 46 U.S.C. app. 1241k.

cultural Export Transportation Policy (hereafter in this section through section 901j referred to as the "Commission").

(b)(1) The Commission shall be composed of 16 members.

(2) Eight members of the Commission shall be appointed by the President.

(3) The chairman and ranking minority members of the Senate Committee on Agriculture, Nutrition, and Forestry, of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science, and Transportation, of the House Committee on Agriculture, and of the House Committee on Merchant Marine and Fisheries[23] shall serve as members of the Commission.

(4)(A) Four of the members appointed by the President shall be representatives of agricultural producers, cooperatives, merchandisers, and processors of agricultural commodities.

(B) The remaining four members appointed by the President shall be representatives of the United States-flag maritime industry, two of whom shall represent labor and two of whom shall represent management.

(c)(1) The members of the Commission shall elect a Chairman from among its members.

(2) Any vacancy in the Commission does not affect its powers but shall be filled in the same manner in which the original appointment was made.

DUTIES OF THE COMMISSION

Sec. 901h.[11, 24] (a) It shall be the duty of the Commission to conduct a comprehensive study and review of the ocean transportation of agricultural exports subject to the cargo preference laws referred to in section 901b and to make recommendations to the President and the Congress for improving the efficiency of such transportation on United States-flag vessels in order to reduce the costs incurred by the United States in connection with such transportation. In carrying out such study and review, the Commission shall consider the extent to which any unfair or discriminatory practices of foreign governments increase the cost to the United States of transporting agricultural commodities subject to such cargo preference laws.

(b)(1) The Commission shall submit an interim report to the President and the Congress not later than one year after the date

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[23] The House Committee on Merchant Marine and Fisheries was abolished in the 104th Congress, and sec. 1(b)(3) of Public Law 104–14 (109 Stat. 186) stated the following:

"(3) the Committee on Merchant Marine and Fisheries of the House of Representatives shall be treated as referring to—

"(A) the Committee on Agriculture of the House of Representatives, in the case of a provision of law relating to inspection of seafood or seafood products;

"(B) the Committee on National Security of the House of Representatives, in the case of a provision of law relating to interoceanic canals, the Merchant Marine Academy and State Maritime Academies, or national security aspects of merchant marine;

"(C) the Committee on Resources of the House of Representatives, in the case of a provision of law relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography;

"(D) the Committee on Science of the House of Representatives, in the case of a provision of law relating to marine research; and

"(E) the Committee on Transportation and Infrastructure of the House of Representatives, in the case of a provision of law relating to a matter other than a matter described in any of subparagraphs (A) through (D).".

[24] 46 U.S.C. app. 1241*l*.

of the enactment of this subtitle and such other interim reports as the Commission considers advisable.

(2) The Commission shall submit a final report containing its findings and recommendations to the President and the Congress not later than two years after the date of the enactment of this subtitle. The report shall include recommendations for any changes in the provisions of paragraph (1) that would help assure that the cost of ocean freight and ocean freight differential incurred by the Department of Agriculture and the Commodity Credit Corporation on the agricultural export programs specified in section 901b, is not increased above historical levels as a result of the extra demand for United States-flag vessels caused by section 901b.

(3) Sixty days after the submission of the final report, the Commission shall cease to exist.

(c) The Commission shall include in its reports submitted pursuant to subsection (b) recommendations concerning the feasibility and desirability of achieving the following goals with respect to the ocean transportation of agricultural commodities subject to the cargo preference laws referred to in section 901b:

(1) Ensuring that the timing of commodity purchase agreements entered into by the United States in connection with the export of such commodities, and the methods of implementing such agreements, will minimize cost to the United States.

(2) Ensuring that shipments of such commodities are made on the most modern and efficient United States-flag vessels available.

(3) Ensuring that shipments of such commodities are made under the most advantageous terms available, including—

(A) charters for full shiploads;

(B) charters for intermediate or long term;

(C) charters for consecutive voyages and contracts of affreightment; and

(D) adjustment of rates in the event that vessels used for shipments of such commodities also carry cargoes on return voyages.

(4) Reduction and elimination of impediments, including delays in port, to the efficient loading and operation of the vessels employed for shipment of such commodities.

(5) Utilization of open and competitive bidding for the ocean transportation of such commodities.

INFORMATION AND ASSISTANCE TO BE FURNISHED TO THE COMMISSION

Sec. 901i.[11, 25] (a) Each department, agency, and instrumentality of the United States, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such statistical data, reports, and other information as the Commission considers necessary to carry out its functions.

(b) The Secretary of Agriculture and the Secretary of Transportation shall make available to the Commission such staff, personnel, and administrative services as may reasonably be required to carry out the Commission's duties.

[25] 46 U.S.C. app. 1241m.

COMPENSATION AND TRAVEL AND SUBSISTENCE EXPENSES OF COMMISSION MEMBERS

Sec. 901j.[11, 26] Members of the Commission shall serve without compensation in addition to compensation they may otherwise be entitled to receive as employees of the United States or as Members of Congress, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

DEFINITION OF UNITED STATES FLAG VESSEL ELIGIBLE TO CARRY CARGOES UNDER CERTAIN SECTIONS

Sec. 901k.[11, 27] A United States flag vessel eligible to carry cargoes under sections 901b through 901d means a vessel, as defined in section 3 of title 1, United States Code, that is necessary for national security purposes and, if more than 25 years old, is within five years of having been substantially rebuilt and certified by the Secretary of Transportation as having a useful life of at least five years after that rebuilding.

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SEC. 1111.[28] (a) AUTHORITY TO GUARANTEE OBLIGATIONS FOR ELIGIBLE EXPORT VESSELS.—The Secretary may guarantee obligations for eligible export vessels—

(1) in accordance with the terms and conditions of this title applicable to loan guarantees in the case of vessels documented under the laws of the United States; or

(2) in accordance with such other terms as the Secretary determines to be more favorable than the terms otherwise provided in this title and to be compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

(b) INTERAGENCY COUNCIL.—

(1) ESTABLISHMENT; COMPOSITION.—There is hereby established an interagency council for the purposes of this section. The council shall be composed of the Secretary of Transportation, who shall be chairman of the Council, the Secretary of the Treasury, the Secretary of State, the Assistant to the President for Economic Policy, the United States Trade Representa-

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[26] 46 U.S.C. app. 1241n.

[27] 46 U.S.C. app. 1241o.

[28] 46 U.S.C. app. 1279d. Sec. 1355(a) of the National Defense Authorization Act for Fiscal Year 1994 (103–160; 107 Stat. 1811) added sec. 1111. Sec. 1355(b) of that Act further provided:

"(b) IMPLEMENTATION.—

"(1) INITIAL DESIGNATION OF COUNCIL MEMBERS.—Each member of the council established under section 1111(b) of the Merchant Marine Act, 1936, as added by subsection (a), shall name a designee for service on the council not later than 30 days after the date of the enactment of this Act. Each such member shall promptly notify the Secretary of Transportation of that designation.

"(2) DESIGNATION OF SENIOR MARAD OFFICIAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall designate a senior official within the Maritime Administration to have the responsibility and authority to carry out the terms and conditions set forth under section 1111 of title XI the Merchant Marine Act, 1936, as added by subsection (a). The Secretary shall make the designation of that official known through a public announcement in a national periodical.".

Sec. 303 of the Fisheries Financing Act (title III of the Sustainable Fisheries Act; Public Law 104–297; 110 Stat. 3559 at 3615) added another sec. 1111, relating to fisheries financing and capacity reduction.

tive, and the President and Chairman of the United States Export-Import Bank, or their designees.

(2) PURPOSE OF THE COUNCIL.—The council shall—

(A) obtain information on shipbuilding loan guarantees, on direct and indirect subsidies, and on other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards; and

(B) provide guidance to the Secretary in establishing terms for loan guarantees for eligible export vessels under subsection (a)(2).

(3) CONSULTATION WITH U.S. SHIPBUILDERS.—The council shall consult regularly with United States shipbuilders to obtain the essential information concerning international shipbuilding competition on which to set terms and conditions for loan guarantees under subsection (a)(2).

(4) ANNUAL REPORT.—Not later than January 31 of each year (beginning in 1995), the Secretary of Transportation shall submit to Congress a report on the activities of the Secretary under this section during the preceding year. Each report shall include documentation of sources of information on assistance provided by the governments of other nations to shipyards in those nations and a summary of recommendations made to the Secretary during the preceding year regarding applications submitted to the Secretary during that year for loan guarantees under this title for construction of eligible export vessels.

2. Executive Orders, Delegations of Authority and Reorganization Plans Relating to Foreign Assistance and Arms Exports

a. Administration of Foreign Assistance and Related Functions

Executive Order 12163, September 29, 1979, 44 F.R. 56673, 22 U.S.C. 2381 note, as amended by Executive Order 12226, July 22, 1980, 45 F.R. 49235; Executive Order 12321, September 14, 1981, 46 F.R. 46109; Executive Order 12365, May 24, 1982, 47 F.R. 22933; Executive Order 12423, May 26, 1983, 48 F.R. 24025; Executive Order 12458, January 14, 1984, 49 F.R. 1977; Executive Order 12500, January 24, 1985, 50 F.R. 3733; Executive Order 12560, May 24, 1986, F.R. 19159; Executive Order 12608, September 9, 1987, 52 F.R. 34617; Executive Order 12620, December 24, 1987, 52 F.R. 49135; Executive Order 12639, May 6, 1988, 53 F.R. 16691; Executive Order 12680, July 5, 1989, 54 F.R. 28995; Executive Order 12695, November 1, 1989, 54 F.R. 46589; Executive Order 12738, December 14, 1990, 55 F.R. 52033; and by Executive Order 13030, December 12, 1996, 61 F.R. 66187

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, Reorganization Plan No. 2 of 1979, the International Development Cooperation Act of 1979, and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

1–1. UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

1–101. Establishment of the United States International Development Cooperation Agency. Sections 1, 5, 6, and 8 of Reorganization Plan No. 2 of 1979 are declared effective and the United States International Development Cooperation Agency (hereinafter referred to as "IDCA") is hereby established.[1]

1–102. Delegation of Functions. (a) Exclusive of the functions otherwise delegated, or reserved to the President, by this order, and subject to the provisions of this order, there are hereby delegated to the Director of IDCA (hereinafter referred to as the "Director") all functions conferred upon the President by:

(1) the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq.*) (hereinafter referred to as the "Act"); except that the delegated functions under sections 116(e), 491(b), 491(c), 607, 627, 628, 630(3), and 666 of the Act shall be exercised in consultation with the Secretary of State.[2]

(2) the Latin American Development Act (22 U.S.C. 1942 *et seq.*);

[1] Executive Order 12147, July 19, 1979 (44 F.R. 42957), declared that secs. 2, 3, and 4 of Reorganization Plan No. 2 of 1979, providing for the offices of Director, Deputy Director and Associate Directors, were immediately effective.

[2] Sec. 1(1) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), added text after the semicolon.

(3) section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922);[3]

(4) section 413(b) of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2431); and section 709 of the ISDCA of 1985, which authority shall be exercised in consultation with the Secretary of State and the Secretary of Defense;

(5)[4] section 1205(b) of the International Security and Development Cooperation Act of 1985 (hereinafter referred to as the "ISDCA of 1985");[5]

(6)[4,6] section 535 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), to be exercised by the Administrator of the Agency for International Development within IDCA;

(7)[4,7] the first proviso under the heading "Population, Development Assistance" contained in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), to be exercised by the Administrator for the Agency for International Development within IDCA;[8]

(8)[4,9] section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), to be exercised by the Administrator of the Agency for International Development within IDCA, with the concurrence of the Development Coordination Committee, as established by section 640B of the Act and as provided for herein.

(9)[4] section 514 of Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), insofar as they related to the authority contained in section 109 of the Act, to exercised by the Administrator of the Agency for International Development within the IDCA.

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[3] Sec. 402 of the Mutual Security Act of 1954 was repealed in 1996 by sec. 228 of Public Law 104–127 (110 Stat. 963).

[4] Sec. 1(2) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), struck out paragraphs (5), (6), and (7), which referred to title IV of the International Development Cooperation Act of 1979, secs. 903(b) and 709 of the International Security and Development Cooperation Act of 1985, respectively, and redesignated paragraphs (8) through (11) as paragraphs (5) through (8). Previously, sec. 1 of Executive Order 12560, May 24, 1986 (51 F.R. 19159), deleted paragraph (6) (which concerned sec. 533 of the Foreign Assistance and Related Programs Appropriations Act, 1985) and added new paragraphs (6), (7), (8), (9), and (10).

[5] Sec. 1(3) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), restated paragraph (5) to delete reference to sec. 1210 of the ISDCA of 1985.

[6] Sec. 1(4) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), amended paragraph (6), which formerly referred to sec. 536 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 100–461).

[7] Sec. (1)(5) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), amended paragraph (7), which formerly referred to Public Law 100–461, and struck out "and" at the end of the paragraph.

[8] In a memorandum of February 16, 1995 (60 F.R. 10793), the President delegated this authority as follows:

"(B) the functions in the first proviso under the heading 'Population Development Assistance,' contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306), and in comparable provisions in successor legislation, to the Secretary of State relating to those organizations and programs for which the Secretary of State has funding responsibility.".

[9] Sec. 1 of Executive Order 12695, November 3, 1989 (54 F.R. 46589) added par. (8), originally designated as par. (11).

(b)[10] The Director shall exercise the functions of the President under sections 301(a), 301(e)(1),[11] and 305 of the Act only insofar as they pertain to the United Nations Development Program, UNICEF, the Organization of American States Technical Assistance Funds, the United Nations Capital Development Fund, the United Nations Educational and Training Program for Southern Africa, the United Nations/Food and Agriculture Organization World Food Program, the Food and Agriculture Organization Post-Harvest Losses Fund, the United Nations Disaster Relief Organization, and any other international programs whose purpose is primarily developmental.

(c)[10] In carrying out the functions under section 653 of the Act that are delegated to the Director, the Director shall consult with the Director of the Office of Management and Budget.

(d)[10] To the extent practicable, the Director will exercise functions relating to Foreign Service personnel in a manner that will assure maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system. To this end he shall consult regularly with the Secretary of State.

(e)[10] In exercising functions under the Act arising from later-enacted amendments to any law specified in subsection (a) of this section that relate directly to matters of foreign policy, the Director shall consult with the Secretary of State to determine whether such function should more appropriately be exercised by the Secretary or reserved to the President.

1–103. Agency for International Development. (a) The Director shall continue within IDCA the Agency for International Development, heretofore established in the Department of State.

(b) The Agency for International Development shall be headed by an Administrator appointed pursuant to section 624(a) of the Act.

(c) The officers provided for in section 624(a) of the Act shall serve in the Agency for International Development.

1–104. Office of Small Business. The Office of Small Business provided for in section 602(b) of the Act shall be in the Agency for International Development.

1–2. DEPARTMENT OF STATE

1–201. Delegation of Functions. (a) Subject to the provisions of this order, there are hereby delegated to the Secretary of State (hereafter in this Part referred to as the "Secretary") all functions conferred upon the President by:

(1) sections 239(g), 301(a), 301(c), 301(e)(1), 302(a)(1) as it relates to the Presidential certification concerning the United Nations Relief and Works Agency, section 305, of the Act;[12]

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[10] Sec. (2) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), struck out subsecs. (b) and (c): (b) referring to functions under secs. 116(e), 491(b), 491(c), 607, 627, 628, 630(3), and 666 of the Foreign Assistance Act of 1961, sec. 403(e) of the IDC Act of 1979, (c) referring to sec. 125(b) of the Foreign Assistance Act of 1961. Sec. (2) redesignated subsecs. (d), (e), (f), and (g) as subsecs. (b), (c), (d), and (e), respectively.

[11] A reference to sec. 301(e)(3), which previously appeared at this point, was struck out by sec. 1(c) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[12] References to secs. 301(b), 301(e)(3), and 302(a)(3), which previously appeared in this paragraph, were struck out by sec. 1(d) of Executive Order 12365, May 24, 1982 (47 F.R. 22933). References to secs. 481 and 502B, which previously appeared in this paragraph were struck out be sec. 3 of Executive Order 12560, May 24, 1986 (51 F.R. 19159), which substituted the words "section 305" in lieu thereof, and added new pars. (26), (27), and (28). Pars. (26), (27), and (28)

(2)[13] section 451 of the Act;

(3)[13] section 495F of the Act, insofar as they relate to policy decisions pertaining to refugee programs under such section;

(4)[13, 14] section 505(a) relating to other provisions which may be required by the President, and sections 505 (d), (e), (f), and (g) of the Act;

(5)[13] section 505(a) (1) and (4) of the Act relating to consent;

(6)[13] section 505(b) of the Act to the extent that it pertains to countries that agree to the conditions set forth therein;

(7)[13] chapter 4 of Part II of the Act, insofar as they relate to policy decisions and justifications for economic support programs under such chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country, and all functions conferred by Section 534 of the Act.[15] Such functions shall be exercised in cooperation with the Director;

(8)[13] chapter 6 of part II of the Act;

(9)[13] section 601(b) (3), (4), and (6) of the Act;

(10)[13] section 604(a) of the Act, insofar as they related to procurement under chapter 1 of part I and chapter 4 of part II of the Act;

(11)[13] section 614(b) of the Act, except that the function of determining which provisions of law should be disregarded to achieve the purpose of the provision is reserved to the President;

(12)[13] section 620 (c), (e), (f), (g), (j), (q), and (s) of the Act;[16]

(13)[13]section 620C(d) and (e), and sections 620G(b) and 620H(b) as added by the Antiterrorism and Effective Death Penalty Act of 1996, (Public Law 104–132)[17] of the Act, as well as section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87), section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306), section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107), and similar provisions of law;

(14)[13] section 625(d) of the Act, insofar as it relates to personnel in the Department of State;

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were subsequently renumbered as (24), (25), and (26) by sec. 30 of Executive Order 12608, Sept. 9, 1987 (52 F.R. 34617). Sec. 3 of Executive Order 12738, December 14, 1990 (55 F.R. 52033), further redesignated paragraphs (9) through (31) as (11) through (33).

[13] Sec. (3) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), (1) redesignated paragraphs (2) through (8) as paragraphs (3) through (9), respectively; (2) redesignated paragraphs (9) through (31) as paragraphs (11) through (33), respectively; and (3) inserted new paragraphs (2) and (10). Previously paragraphs were redesignated by Executive Order 12608, Sept. 9, 1987 (52 F.R. 34617), Executive Order 12560, May 24, 1986 (51 F.R. 19159), and Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[14] Sec. 4 of Executive Order 12560, May 24, 1986 (51 F.R. 19159), restated par. (4), as redesignated from par. (3), and struck out the reference to sec. 504(a) and added the reference to sec. 505(f).

[15] The words "and all functions conferred by Section 534 of the Act" were added by Executive Order 12620, December 24, 1987 (52 F.R. 49135).

[16] References to sec. 620 (b) and (i), which previously appeared in this paragraph, were struck out by sec. 1(e) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[17] Sec. 1 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), added "and (e)". Sec. 1(a) of Executive Order 13030, December 12, 1996 (61 F.R. 66187) added ", and sections 620G(b) and 620H(b) as added by the Antiterrorism and Effective Death Penalty Act of 1996, (Public Law 104–132)" before "of". Sec. 1(b) of that Order added references to the foreign assistance appropriations acts.

(15)[13] section 625(k)(1) of the Act;

(16)[13] section 634B of the Act, insofar as it relates to functions delegated to the Secretary under this order;

(17)[13] sections 617 and 653 of the Act, insofar as they relate to chapter 8 of part I and part II of the Act;

(18)[13, 18] other provisions of the Act that relate directly and necessarily to the conduct of programs and activities vested in or delegated to the Secretary;

(19)[13, 19] section 8(d) of the Act of January 12, 1971 (22 U.S.C. 2321b(d)); and

(20)[13] section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a).

(21)[13, 20] section 725 of the International Security and Development Cooperation Act of 1981;

(22)[13, 20] section 726 of the International Security and Development Cooperation Act of 1981;

(23)[13, 21] Chapter 8 of Part II of the Act, except that such functions shall be exercised consistent with Section 573(d)(3) thereof;

(24)[13, 22] Section 402(b)(2) of Title 10 of the United States Code, which shall be exercised in consultation with the Secretary of Defense.

(25)[13] sections 207, 552(b), 611, 612(a), 617(c), 702(c), 703(a), 705 (b) and (c), 706, 722(j), 813(b) and 1008 of the ISDCA of 1985;

(26)[13] chapter 8 of part I of the Act, except for section 481(h), which is reserved to the President;

(27)[13] section 502B of the Act;[23]

(28)[24] sections 513, 538, 554, 559, 560, 561, 562, 564(c), 599C, and 599G(a)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167);

(29)[24] the second and third provisos under the subheading "Contribution to the International Development Association" under the heading "Annual Contributions to International Financial Institutions" contained in title I of the Foreign Oper-

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[18] Sec. 6 of Executive Order 12560, May 24, 1986 (51 F.R. 19160), deleted the words "other than chapter 4 thereof".

[19] Sec. (f) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), deleted original pars. (17) and (19) (which concerned sec. 657 and 668 of the Foreign Assistance Act of 1961 and the Mutual Defense Assistance Control Act of 1951, respectively) and renumbered the remaining paragraphs accordingly.

[20] Pars. (21) and (22), as redesignated, were added by sec. 1(a) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[21] Par. (23), previously numbered (21), was added by sec. 1 of Executive Order 12458, Jan. 14, 1984 (49 F.R. 1977).

[22] Sec. 1 of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), added par. (24), previously numbered (22). It was later amended by sec. 5 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Sec. 1 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), rewrote par. 22. It formerly read as follows:

"Sec. 1540 of the Department of Defense Authorization Act, 1985, (Public Law 98–525), as amended by section 306 of the Department of Defense Authorization Act, 1986 (Public Law 99–145), which shall be exercised in consultation with the Secretary of Defense.".

[23] Sec. 1 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted "and" at this point, and rewrote par. (26), renumbered (27), adding reference to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100–202).

[24] Sec. (4)(1) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), restated paragraphs (28) through (32), as redesignated by sec. (3)(2) of that Executive Order. Previously, sec. 5 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), added par. (27), (28), and (29), renumbered as (29), (30), and (31).

ations, Export Financing, and Related Programs Act, 1990 (Public Law 101–167), and section 548 of such Act, each of which shall be exercised in consultation with the Secretary of the Treasury;

(30)[24] the proviso relating to certain expropriation claims of U.S. citizens in El Salvador under the heading "Economic Support Fund" contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167);

(31)[24] the proviso relating to tied aid credits under the heading "Economic Support Fund" contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), which shall be exercised in consultation with the Administrator of the Agency for International Development within IDCA;

(32)[25] subsection (c)(2) under the heading "Foreign Military Sales Debt Reforms" contained in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100–202), which shall be exercised in consultation with the Secretary of Defense;

(33)[25] sections 4101(b), 4205(d), 4307(a), and 4309 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690). The Secretary of State in implementing the functions delegated to him under section 4205(d) shall consult with the Secretary of Defense;[26]

(34)[26] section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), which shall be exercised in consultation with the President of the Export-Import Bank of the United States;

(35)[26] section 581(a) and 581(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), which shall be exercised in consultation with the Secretary of Defense; and

(36)[26] section 12 of the International Narcotics Control Act of 1989 (Public Law 101–231).

(b) The functions under sections 239(g), 620(e), 620(g),[27] 620(j), 620(q), 620(s), and 625(k)(1) of the Act delegated to the Secretary shall be exercised in consultation with the Director.

(c) The functions under section 653 of the Act delegated to the Secretary shall be exercised in consultation with the Secretary of Defense, insofar as they relate to functions under the Act administered by the Department of Defense, and the Director of the Office of Management and Budget.

(d) The Secretary may redelegate to the Director or to any other officer or agency of the Executive branch functions delegated to the Secretary by this order.

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[25] Sec.(4)(1) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), restated paragraph (32), which previously had been added as paragraph (30) by sec. 3 of Executive Order 12680, July 5, 1989 (54 F.R. 28995). That Executive Order also added paragraph (33), originally numbered (31).

[26] Sec. (4)(2) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), struck out "." and inserted ";" at the end of par. (33), and added pars. (34), (35), and (36).

[27] A reference to sec. 620(i), which previously appeared at this point, was struck out by sec. 1(g) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

1–3. DEPARTMENT OF DEFENSE

1–301. Delegation of Functions. Subject to the provisions of this order, there are hereby delegated to the Secretary of Defense:

(a) The functions conferred upon the President by Part II (except chapters 4, 6, and 8 thereof[28] of the Act not otherwise delegated or reserved to the President.

(b) To the extent that they relate to other functions under the Act administered by the Department of Defense, the functions conferred upon the President by sections 602(a), 605(a), 625(a), 625(d)(1), 625(h), 627, 628, 630(3), 631(a), 634B, 635(b) (except with respect to negotiation, conclusion, and termination of international agreements), 635(d), 635(g), and 636(i) of the Act.[29]

(c) Those functions under section 634A of the Act, to the extent they relate to notifications to the Congress concerning changes in programs under part II of the Act (except chapters 4, 6, and 8 thereof)[28] and under the Arms Export Control Act, as amended,[30] subject to prior consultation with the Secretary of State.

(d) The functions under sections 627, 628, and 630(3) of the Act delegated to the Secretary of Defense shall be exercised in consultation with the Secretary of State.

(e)[31] Those functions conferred upon the President under section 616 of the ISDCA of 1985.

(f)[32] The functions conferred upon the President under section 573 and section 581(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167).

(g)[33] The functions conferred upon the President under section 3 of the International Narcotics Control Act of 1989 (Public Law 101–231), which shall be exercised in consultation with the Secretary of State.

1–302. Reports and Information. In carrying out the functions under section 514 of the Act delegated to him by section 301 of this order, the Secretary of Defense shall consult with the Secretary of State.

1–4. INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

1–401. Establishment of Institute for Scientific and Technological Cooperation. There is established within IDCA the Institute for Scientific and Technological Cooperation (hereinafter referred to as the Institute).

1–402. Establishment of the Council on International Scientific and Technological Cooperation. There is established the Council on International Scientific and Technological Cooperation pursuant to section 407(a) of the IDC Act of 1979.

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[28] The reference to ch. 8 was added by Executive Order 12458, Jan. 14, 1984 (49 F.R. 1977).

[29] Sec. 1 of Executive Order 12423, May 26, 1983 (48 F.R. 24025), added the reference to sec. 636(i).

[30] The reference to the Arms Control Export Act, as amended, was added by sec. 8 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[31] Par. (e) was added by sec. 7 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[32] Sec. 6 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), added subsec. (f). Sec. 5 of Executive Order 12738, December 14, 1990 (55 F.R. 52033), updated reference to current Foreign Operations Appropriations Act.

[33] Sec. 5(2) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), added subsec. (g).

1–403. There are hereby established two additional positions in the Institute pursuant to section 406(c) of the IDC Act of 1979. The officers appointed to these positions shall perform such duties and exercise such powers as the Director of the Institute may prescribe.

1–5. OTHER AGENCIES

1–501. Department of the Treasury. (a) There are delegated to the Secretary of the Treasury the functions conferred upon the President by:

(1)[34] section 305, insofar as it relates to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Fund, and the International Monetary Fund;

(2)[34] the second sentence of section 612(a) of the Act; and

(3)[34] section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(b) The Secretary of the Treasury shall continue to administer any open special foreign country accounts established pursuant to former section 514 of the Act as enacted by section 201(f) of Public Law 92–226 (86 Stat. 25) and repealed by Section 12(b)(5) of Public Law 93–189 (87 Stat. 722).

(c) The functions under section 305 of the Act delegated to the Secretary of the Treasury shall be exercised in consultation with the Director, as provided in Executive Order No. 11269 of February 14, 1966, as amended.

1–502. Department of Commerce. There is hereby delegated to the Secretary of Commerce so much of the functions conferred upon the President by section 601(b)(1) of the Act as consists of drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas.

1–503. Office of Personnel Management. There is hereby delegated to the Director of the Office of Personnel Management the function of prescribing regulations conferred upon the President by the proviso contained in section 625(b) of the Act.

1–504. International Communication Agency. The International Communication Agency shall perform all public information functions abroad with respect to the foreign assistance, aid, and development programs of the United States Government.

1–505. Development Loan Committee. There is hereby established a Development Loan Committee in accordance with section 122(e) of the Act which shall consist of the Director of IDCA, who shall be Chairman, the Administrator of the Agency for International Development, the Chairman of the Board of Directors of the Export-Import Bank of the United States, the Assistant Secretary of State for Economic Affairs, the Assistant Secretary of the Treasury dealing with international finance, the Assistant Secretary of Commerce for Industry and Trade, and the officer of the

[34] Sec. 1(h) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), struck out par. (1) (which concerned sec. 301(e)(3) of the Foreign Assistance Act of 1961) and renumbered the remaining paragraphs accordingly.

Agency for International Development dealing with development financing.

1–506. Development Coordination Committee. (a) In accordance with section 640B of the Act, there is hereby established a Development Coordination Committee (hereinafter referred to as the Committee). The Committee shall consist of the Director of IDCA, who shall be Chairman; the Administrator of the Agency for International Development, the Director of the Institute for Scientific and Technological Cooperation; the Under Secretary of State for Economic Affairs; the Under Secretary of the Treasury for Monetary Affairs; the Under Secretary of Commerce; the Under Secretary of Agriculture; the Under Secretary of Labor; the Under Secretary of Energy; a Deputy Special Representative for Trade Negotiations; an Associate Director of the Office of Management and Budget; a representative of the Assistant to the President for National Security Affairs; the President of the Export-Import Bank of the United States; the Director of the Peace Corps;[35] and the President of the Overseas Private Investment Corporation.

(b) Whenever matters within the jurisdiction of the Committee may be of interest to Federal agencies not represented on the Committee under subsection (a) of this section, the Chairman of the Committee may consult with such agencies and may invite them to designate representatives to participate in meetings and deliberations of the Committee.

(c) The Chairman of the Committee may establish subcommittees of the Committee and designate the chairman thereof.

(d) Subject to the foreign policy guidance of the Secretary of State, the Committee shall advise the President with respect to coordination of United States policy and programs affecting the development of developing countries, including programs of bilateral and multilateral development assistance.

(e) All agencies and officers of the Government shall keep the Committee informed in necessary detail as to the policies, programs and activities referred to in subsection (d) of this section.

(f) Nothing herein shall be deemed to derogate from the responsibilities of the Secretary of State or the Secretary of the Treasury, or from responsibilities vested elsewhere by law or other Executive Orders.

1–6. ADDITIONAL DELEGATIONS AND LIMITATIONS OF AUTHORITY; CONSULTATION

1–601. General Delegation of Functions. There are hereby delegated to the heads of agencies having responsibilities for carrying out the provisions of the Act all functions conferred upon the President by:

(a) section 654 (except as reserved to the President); and

(b) those provisions of acts appropriating funds under the authority of the Act that relate to the Act, or other acts authorizing such funds, insofar as they relate to the functions delegated by this order.

[35] The Peace Corps was added to the membership of the Development Coordination Committee by Executive Order 12226, July 22, 1980 (45 F.R. 49235).

1–602. Personnel. (a) In carrying out the functions conferred upon the President by the provisions of section 625(d)(1) of the Act, and by this order delegated to the Director of IDCA, the Director shall authorize such of the agencies that administer programs under the Act as he may deem appropriate to perform any of the functions under section 625(d)(1) of the Act to the extent that the said functions relate to the programs administered by the respective agencies.

(b) Persons appointed, employed, or assigned after May 19, 1959, under section 527(c) of the Mutual Security Act of 1954 or section 625(d) of the Act for the purpose of performing functions under such Acts outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by section 528 of the Foreign Service Act of 1946 in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1–603. Special Missions and Staffs Abroad. The maintenance of special missions or staffs abroad, the fixing of the ranks of the chiefs thereof after the chiefs of the United States diplomatic missions, and the authorization of the same compensation and allowances as the chief of mission, class 3 and class 4, within the meaning of the Foreign Service Act of 1946 (22 U.S.C. 801 *et sec.*), all under section 631 of the Act, shall be subject to the approval of the Secretary of State.

1–604. International Agreements. The negotiation, conclusion, and termination of international agreements pursuant to the Act, title IV of the IDC Act of 1979, or section 402 of the Mutual Security Act of 1954[36] shall be subject to the requirements of 1 U.S.C. 112b and to applicable regulations and procedures.

1–605. Interagency Consultation. Each officer to whom functions are delegated by this order, shall, in carrying out such functions, consult with the heads of other departments and agencies, including the Director of the Office of Management and Budget, on matters pertaining to the responsibilities of departments and agencies other than his or her own.

1–7. RESERVED FUNCTIONS

1–701. Reservation of Functions to the President. There are hereby excluded from the functions delegated by the foregoing provisions of this order:

(a) The functions conferred upon the President by sections 122(e), 298(a),[37] 504(b), 613(a), 614(a), 620(a), 620(d), 620(x), 620A, 620C(c), 621(a), 622(b), 622(c), 633(a), 633(b), 640B, 662(a), and 663(b) of the Act.

(b) The functions conferred upon the President by sections 402, 405(a), 406 and 407 of the IDC Act of 1979.

(c) The functions conferred upon the President by the Act and section 408(b) of the Mutual Security Act of 1954 with respect to the appointment of officers required to be appointed by and with

[36] Sec. 402 of the Mutual Security Act of 1954 was repealed in 1996 by sec. 228 of Public Law 104–127 (110 Stat. 963).

[37] Sec. 6(1) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), struck out "451" here.

the advice and consent of the Senate and with respect to the appointment of officers pursuant to sections 233(b) and 624(c) of the Act.

(d)[38] The functions conferred upon the President with respect to determinations, certifications, directives, or transfers of funds, as the case may be, by sections 303, 465(b), 481(h), 505(d)(2)(A), 505(d)(3), 506(a), 552(c), 552(e), 610, 614(c), 620E, 632(b), 633A, 663(a), 669(b)(1), 670(a), 670(b)(2), and 670(b)(3) of the Act; those under section 604(a) of the Act except insofar as they related to procurement under chapter 1 of part I and chapter 4 of part II.

(e) The following-described functions conferred upon the President:

(1) Those under section 503(a) that relate to findings: *Provided*, That the Secretary of State, in the implementation of the functions delegated to him under sections 505(a)(1), (a)(4), and (e) of the Act, is authorized to find, in the case of a proposed transfer of a defense article or related training or a related defense service by a foreign country or international organization to a foreign country or international organization not otherwise eligible under section 503(a) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(2) Those under section 505(b) in respect of countries that do not agree to the conditions set forth therein.

(3) That under section 614(b) with respect to determining any provisions of law to be disregarded to achieve the purpose of that section.

(4) That under the second sentence of section 654(c) with respect to the publication in the Federal Register of any findings or determination reserved to the President: *Provided*, That any officer to whom there is delegated the function of making any finding or determination within the purview of section 654(a) is also authorized to reach the conclusion specified in performance of the function delegated to him.

(f)[39] That under section 523(d) of the Mutual Security Act of 1954 (22 U.S.C. 1783(d)).

(g)[40] Those under sections 130, 131, 504 and 505 of the ISDCA of 1985.

1–702. Subsequent Amendments. Functions conferred upon the President by subsequent amendments to the Act are delegated to the Director only insofar as they do not relate directly and nec-

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[38] Sec. 6(2) restated subsec. (d), and added the text following the semicolon. Sec. 7 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted "(2)" following sec. 670(a). References to secs. 465(b), 552(c), and 552(e) were added by sec. 9 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Sec. 3 of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), inserted the reference to section 481(h) in lieu of a reference to 481(a). Sec. 1(b) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), deleted references to sec. 659 and 670(b)(1), and added the references to sec. 620E, 670(a)(2), 670(b)(2), and 670(b)(3). A reference to sec. 515(f) was deleted by sec. 1 of Executive Order 12321, Sept. 14, 1981 (46 F.R. 46109).

[39] Sec. 1(i) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), struck out subsec. (f), which contained references to sec. 103(b) (first proviso), 104, and 203 of the Mutual Defense Assistance Control Act of 1951, and renumbered the remaining subsections accordingly.

[40] Subsec. (g), originally added as subsec. (h), was amended and restated by sec. 10 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Previously, this subsec. made reference to sec. 607 of the Foreign Assistance and Related Programs Appropriations Act, 1979. Sec. 7 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted the following text from the end of this paragraph: "and under section 529 of the Foreign Assistance and Related Programs Appropriations Act, 1986".

essarily to the conduct of programs and activities that either the President or an agency other than IDCA is authorized to administer pursuant to express reservation or delegation of authorities in a statute or in this or another Executive Order.

1–8. FUNDS

1–801. Allocation of Funds. Funds appropriated or otherwise made available to the President for carrying out the Act shall be deemed to be allocated without any further action of the President, as follows:

(a) There are allocated to the Director (1) all funds made available for carrying out the Act except those made available for carrying out Part II of the Act (other than chapter 4 thereof), section 481 of the Act, and section 637(b) of the Act, and (2) all funds made available for carrying out title IV of the IDC Act of 1979.

(b) There are allocated to the Secretary of Defense funds made available for carrying out Part II of the Act (except chapters 4, 6, and 8 thereof).

(c) There are allocated to the Secretary of State funds made available for carrying out sections 481 and 637(b) and chapters 6 and 8 of Part II of the Act.[28]

1–802. Reallocation of Funds. The Director of IDCA, the Secretary of Defense, and the Secretary of State may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c), respectively of section 1–801 of this order, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

1–9. GENERAL PROVISIONS

1–901. Definition. As used in this order, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

1–902. References to Orders and Acts. Except as may for any reason be inappropriate:

(a) References in this order or in any other Executive Order to (1) the Foreign Assistance Act of 1961 (including references herein to "the Act"), (2) unrepealed provisions of the Mutual Security Act of 1954, or (3) any other act that relates to the subject of this order shall be deemed to include references to any subsequent amendments thereto.

(b) References in any prior Executive Order to the Mutual Security Act of 1954 or any provisions thereof shall be deemed to be references to the Act or the corresponding provision, if any, thereof.

(c)[41] References in this order to provisions of any Act, and references in any other Executive Order or in any memorandum delegation to provisions of any Act related to the subject of this order shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provisions, respectively.

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[41] Sec. 4 of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), amended and restated subsec. (c).

(d) References in this order or in any other Executive Order to this order or to any provision thereof shall be deemed to include references thereto, respectively, as amended from time to time.

(e) References in any prior Executive Order not superseded by this order to any provisions of any Executive Order so superseded shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

1–903. Prior Executive Orders. (a) The following are revoked:

(1) Executive Order No. 10973 of November 3, 1961, as amended;

(2) section 2(a) of Executive Order No. 11579 of January 19, 1971; and

(3) Executive Order No. 10893 of November 8, 1960.

(b) The following are amended: * * *

(c) Any reference in any other Executive Order to the Agency for International Development or the Administrator thereof shall be deemed to refer also to the International Development Cooperation Agency or the Director thereof, respectively.

(d) As authorized by section 403(c) of the IDC Act of 1979, the reference in Executive Order No. 11223 of May 12, 1965 to "the performance of functions authorized by this Act" shall be deemed to include the performance of functions authorized by section 403 of the IDC Act of 1979.

1–904. Saving Provisions. Except to the extent inconsistent with this order, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–905. Effective Date. The provisions of this order shall become effective as of October 1, 1979.

b. State Department Delegation of Authority No. 145

State Department Delegation of Authority No. 145, February 4, 1980, 45 F.R. 11655, as amended by Delegation of Authority No. 145–1, July 15, 1980, 45 F.R. 51974; Delegation of Authority No. 145–2, February 4, 1984, 49 F.R. 7018; Delegation of Authority No. 145–4, February 19, 1986, 41 F.R. 5942; Delegation of Authority 145–5, January 22, 1988, 53 F.R. 5072; Delegation of Authority 145–6, February 23, 1988, 53 F.R. 8540; Delegation of Authority 145–7, July 1, 1991, 56 F.R. 34088; Delegation of Authority 145–8, June 29, 1993; Delegation of Authority 145–9, May 5, 1994; Delegation of Authority 145–10, June 30, 1994, 59 F.R. 33812; Delegation of Authority 145–11, October 24, 1994, 59 F.R. 54668; Delegation of Authority 145–13, May 16, 1996, 61 F.R. 25727

FOREIGN ASSISTANCE ACT OF 1961 AND CERTAIN RELATED ACTS

DELEGATION OF AUTHORITY

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.* (hereinafter "the Act"), Executive Order No. 12163 of September 29, 1979, 44 F.R. 56673 (hereinafter "the Order"), and section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), the following functions are hereby delegated:

Section 1. Functions Delegated to Officers of the Department of State

The following functions are delegated to officers of the Department of State as indicated:

(a) To the Under Secretary for Arms Control and International Security Affairs:[1]

(1) Exclusive of the functions reserved to the Secretary of State herein or otherwise delegated, the functions conferred upon the Secretary by section 1–201 of the order insofar as such functions relate to programs under part II of the Act (including chapters 4 and 6 thereof), and by Executive Order 11958 of January 18, 1977 (42 F.R. 4311), relating to sales and exports under the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

(2) Subject to section 3(a) of this delegation of authority, the functions conferred upon the Secretary of State by sections 531(a)(2) and 622(c) of the Act and by section 2(b) of the Arms Export Control Act relating to continuous supervision and general direction of economic assistance and military assistance and sales programs and exports, including, but not limited to, whether there shall be an economic support program for a country and the amount thereof, a military assistance program for a country and the value thereof or a military sale to a country and the amount

[1] Department of State Delegation of Authority, June 10, 1994 (59 F.R. 33812), struck out "Under Secretary for Security Assistance, Science and Technology", and inserted in lieu thereof "Under Secretary for Arms Control and International Security Affairs".

thereof, and whether there shall be delivery or other performance under such program, sale or export, to the end that such programs, sales and exports are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(3) The functions conferred upon the Secretary of State by—

(A) sections 39 and 42(b) of the Arms Export Control Act,

(B) section 504 of the Foreign Relations Authorization Act, fiscal year 1979 (22 U.S.C. 2656d),[2]

(C)[3] section 1454 of the Department of Defense Authorization Act, 1986 (PL 99–145, 10 U.S.C. 2547), and (to the extent not otherwise expressly delegated or reserved) other authorities and responsibilities of the Secretary of State relating to the provision of Department of Defense equipment or services for humanitarian purposes, and[2]

(D) Section 1324(a) of Title XIII of the Defense Authorization Act, 1996 (Public Law 104–106).

(4) The functions conferred on the President by—

(A) section 8(d) of the act of January 12, 1971 (22 U.S.C. 2321b(d)); and

(B) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a).

(C)[4] Section 1540(b)(1)(A) of the Department of Defense Authorization Act, 1985, (Pub. L. 98–525), who shall exercise such function in consultation with the Secretary of Defense.

(5) The function of consultation, pursuant to the order and Executive Order 11958, with the Secretary of Defense, the Director of the Office of Management and Budget and the Director of the International Development Cooperation Agency (hereinafter "IDCA").

(6)[5] The functions conferred on the Secretary of State by sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991 (NDAA) (Public Law 101–510; 50 U.S.C. App. 2402 note, 2405, 2410(b); 22 U.S.C. 2797–2797c), and all functions conferred on the President by sections 1701–1703 of the NDAA; sections 303, 324, and 401–405 of the Foreign Relations Authorization Act, fiscal Years 1992 and 1993 (Public Law 102–138); sections 305, 306, 308, and all of sections 307 with the exception of subsection 307(b)(2)(F)(ii), of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182; 50 U.S.C. App. 2410c; 22 U.S.C. 2798, 5604–5606); sections 241 and 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190); and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law

[2] Department of State Delegation of Authority No. 145–13, May 16, 1996 (61 F.R. 25727), struck out "and" at the end of subpara. (B), struck out a period at the end of subpara. (C) and added ", and", and added subpara. (D).

[3] Subparagraph (C) was added by State Department Delegation of Authority 145–6, February 23, 1988 (53 F.R. 8540).

[4] Subpar. (C) was added by State Department Delegation of Authority No. 145–4, February 19, 1986 (51 F.R. 5942).

[5] Department of State Delegation of Authority No. 145–7, July 1, 1991 (56 F.R. 34088), added para. (6) to confer functions assigned to the President by title XVII of the National Defense Authorization Act for Fiscal Year 1991 to the Secretary of State. Paragraph (6) was amended and restated by Delegation of Authority No. 145–8 of June 29, 1993. The current text was added by Delegation of Authority No. 145–10, June 10, 1994 (59 F.R. 33812).

102–484), to the extent that such functions were delegated to the Secretary of State pursuant to Executive Order 12851 of June 11, 1993.

(7)[6] The functions conferred on the Secretary of State by section 374 of Title 10, United States Code and other authorities and responsibilities of the Secretary of State related to the provision of Department of Defense equipment and services for narcotics-related purposes.

(8)[7] The functions specified in sections 504 and 508[8] of the FREEDOM Support Act (22 U.S.C. 5801 *et seq.*) and Title III of the Foreign Operations, Export Financing, and Related Programs Act, 1994 (Public Law 103–87) relating to the Nonproliferation and Disarmament Fund, to the extent that such functions were delegated to the Secretary of State pursuant to the Presidential Memorandum Delegation of Authority dated April 21, 1994.

(9)[6] The function specified in section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), relating to the implementation of United Nations arms embargoes, to the extent that such functions were delegated to the Secretary of State by Executive Order 12918 of May 26, 1994.

(11)[9] The functions specified in the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), to the extent that such functions were delegated to the Secretary of State pursuant to Presidential Memorandum Delegation of Authority dated September 27, 1994.

(b) To the Under Secretary for Management:

(1) The function of consultation with the Director of IDCA under the Order with respect to maximum compatibility in the administration of the Foreign Service personnel system.

(2) The function conferred on the Secretary of State by section 514 of the Mutual Security Act of 1954 (22 U.S.C. 1766).

(c) To the Assistant Secretary for Economic and Business Affairs:

(1)[10] Those functions conferred upon the Secretary of State by sections 5(k) and 6(k) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(k), 2405(k)) and the functions under sections 5(f)(4), 5(i), and 6(g) of such Act conferred upon the Secretary of State by section 1–102(b) of Executive Order 12214 of May 2, 1980, 45 F.R. 29783, relating to negotiations with other countries, subject to the concurrences required by the Department of State Circular 175 Procedure.

(2) Those functions conferred upon the President by section 601(b)(6) of the act.

(3) The function conferred upon the Secretary of State by section 3(b) of Executive Order 10900 of January 5, 1961 (26 F.R. 143) of insuring that all functions exercised under the Agricultural Trade

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[6] Department of State Delegation of Authority No. 145–10, June 10, 1994 (59 F.R. 33812), amended and restated paras. (6) and (8), and added new paras. (7) and (9).

[7] Department of State Delegation of Authority No. 145–10, June 10, 1994 (59 F.R. 33812) added para. (8).

[8] Department of State Delegation of Authority No. 145–13, May 16, 1996 (61 F.R. 25727), added reference to sec. 508.

[9] Department of State Delegation of Authority No. 145–11, October 24, 1994 (59 F.R. 54668) added para. (11).

[10] The amendments of July 15, 1980 (45 F.R. 51974) added all the functions listed under par. (1) except for those under sec. 5(k) of the Export Administration Act of 1979.

Development and Assistance Act of 1954 (7 U.S.C. 1701 *et seq.*) are consistent with the foreign policy of the United States.

(d) To the Assistant Secretary for International Organization Affairs:

Those functions conferred upon the President by sections 301(a), 301(b), 301(c), 301(e)(1), 301(e)(3), 302(a)(1) as it relates to the Presidential certifications concerning the United Nations Relief and Works Agency 302(a)(3), and 305 of the act.

(e) To the Assistant Secretaries:

Principal responsibility consistent with section I–604 of the order for concurrence of the Department of State, with the approval of the legal adviser and in accordance with the Circular 175 Procedure, in the negotiation, conclusion and termination of international agreements relevant to their respective areas of responsibility by IDCA and its component agencies pursuant to international agreement authorities conferred upon IDCA and its component agencies by statute, reorganization plan, Executive Order, or delegation of authority.

(f) To the legal adviser:

(1) Those functions conferred upon the President by sections 601(b)(3), 601(b)(4), and 620(e)(2) of the act.

(2) Responsibility for insuring compliance with the Case Act (1 U.S.C. 112b) and applicable regulations and procedures, including the Circular 175 Procedure, with respect to international agreements.

(g) To the Assistant Secretary for International Narcotics Matters:

(1) Those functions conferred upon the President by section 481 of the act, together with all those authorities contained in the act, to the extent necessary or appropriate to accomplish the purpose of section 481 of the act: *Provided,* That Department of State procurement for the International Narcotics Control Program shall be carried out in accordance with Department of State Procurement Regulations (41 CFR Chapter 6).

(2) Those functions conferred upon the Secretary of state by the determination of the President pursuant to section 604(a) of the act, dated October 18, 1961 (26 F.R. 10543), and by section 4 of the Executive Order 11223 of May 12, 1965 (30 F.R. 6635).

(3) The functions of negotiating, concluding and terminating international agreements relating to international narcotics control programs subject to the concurrences required by the Circular 175 Procedure.

(h) To the Coordinator for Refugee Affairs:

Those functions conferred upon the President by section 495F and by Chapter 4 of part II of the act insofar as they relate to refugees, together with all those authorities contained in the act, to the extent necessary or appropriate to accomplish such purposes of section 495F and of chapter 4 of part II.

(i) [11] To the Director of the Office for Combatting Terrorism:

Those functions conferred upon the President by Chapter 8 of Part II of the act, together with all those authorities contained in

[11] The amendments of February 4, 1984 (49 F.R. 7018) added subsec. (i). Such amendments further stated that "Actions within the scope of this delegation heretofore taken by the official designated in such delegation are hereby ratified and confirmed."

the act, to the extent necessary or appropriate to accomplish the purposes of Chapter 8 of Part II of the act, except that such functions shall be exercised consistent with Section 573(d)(3) thereof.

(j)[12] To the Assistant Secretary for Inter-American Affairs:

Those functions conferred upon the President by section 534(b)(3) of the Act, to be exercised in cooperation with the Administrator of the Agency for International Development within the International Development Cooperation Agency, together with authorities under other provisions in chapter 4 of part II or part III of the Act which may be necessary to implement such functions.

Section 2. Functions Delegated to Other Agencies

(a)[13] The functions conferred on the President by section 620(s) of the Act are hereby delegated to the Director of the United States International Development Cooperation Agency,[14] who shall exercise such functions in consultation with the Under Secretary of State for Security Assistance, Science and Technology. The functions conferred on the President by section 534 of the Act, with the exception of those contained in subsection (b)(3), are hereby delegated to the Administrator of the Agency for International Development within the United States International Development Cooperation Agency, who shall exercise such functions in cooperation with the Assistant Secretary of State for Inter-American Affairs.[15]

(b)[13] The functions conferred upon the President and upon the Secretary of State by section 1540 of the Department of Defense Authorization Act, 1985, (Pub. L. 98-525), not otherwise delegated herein, are hereby delegated to the Administrator of the Agency for International Development, who shall exercise such function in consultation with the Secretary of Defense and with the Under Secretary of State for Security Assistance, Science and Technology.

Section 3.[16] Functions Reserved to the Secretary of State

There are hereby reserved to the Secretary of State:

(a) The functions conferred on the President by sections 239(g), 502B(a)(2), 505(b), 533(b), 614(b), 620(b), 620(c), 620(e)(1), 620(f), 620(g), 620(i), and 620(q) of the act.

(b) The functions of determining which are friendly nations within the meaning of section 107 of the Agricultural Trade Development and Assistance Act of 1954 for the purpose of negotiating and concluding agreements pursuant to the authority contained in section 3(a) of Executive Order 10900 of January 5, 1961.

Section 4.[16] General Provisions

(a) As used in this delegation of authority, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

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[12] Subsec. (j) was added by State Department Delegation of Authority 145–5, January 22, 1988 (53 F.R. 5072).

[13] Department of State Delegation of Authority No. 145–4, February 19, 1986 (51 F.R. 5942), added subsec. designation "(a)", and added new subsec. (b).

[14] Pursuant to IDCA Delegation of Authority No. 7 of July 29, 1980 (45 F.R. 52470) this function was redelegated to the Administer of AID.

[15] This last sentence was added by State Department Delegation of Authority 145–5, January 22, 1988 (53 F.R. 5072).

[16] The amendments of July 15, 1980 (45 F.R. 51974) redesignated existing secs. 2 and 3 as secs. 3 and 4, respectively, and added a new sec. 2.

(b) Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation, or procedure shall be deemed to be a reference to such act, order, determination, delegation of authority, regulation, or procedure as amended from time to time.

(c) Any reference in this delegation of authority to security assistance, shall be deemed to include all forms of security assistance, including assistance and training under part II of the act (including chapters 4 and 6 thereof), sales, exports, credits, and guaranties under the Arms Export Control Act, and naval vessel transfer as authorized by law.

(d) Notwithstanding any provision of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function delegated or reserved[17] by this delegation of authority.

(e) Any officer to whom functions are delegated[18] by this delegation of authority may, to the extent consistent with law:

(1) redelegate such functions and authorize their successive redelegation; and

(2) promulgate such rules and regulations as may be necessary to carry out such functions.

(f) State Department Delegation of Authority No. 104 of November 3, 1961 (26 F.R. 10608), as amended, is revoked.

(g) Except to the extent inconsistent with this delegation of authority, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this delegation of authority, shall continue in full force and effect until modified, amended, or terminated by appropriate authority.

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[17] The amendments of February 4, 1984 (49 F.R. 7018) added the words "or reserved".

[18] The words "to any officer of the Department of State" which previously appeared at this point, were struck out by the amendments of July 15, 1980 (45 F.R. 51974).

c. International Development Cooperation Agency Delegation of Authority No. 1

International Development Cooperation Agency Delegation of Authority No. 1, October 1, 1979, 44 F.R. 57521; as amended by amendment of October 31, 1980, 45 F.R. 74090

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY: FOREIGN ECONOMIC ASSISTANCE

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*) (hereinafter referred to as the Act), title IV of the International Development Cooperation Act of 1979 (22 U.S.C. 3501 *et seq.*), Executive Order No. 12163 of September 29, 1979 entitled "Administration of Foreign Assistance and Related Functions" (hereinafter referred to as the Executive Order), and Reorganization Plan No. 2 of 1979 (44 F.R. 41185), it is ordered as follows:

1–1. Concurrent Authority

1–101. Notwithstanding any provision of this Delegation of Authority, the Director of the United States International Development Cooperation Agency (hereinafter referred to as IDCA) may at any time exercise any function delegated by this Delegation of Authority.

1–2. Continuation of the Agency For International Development

1–201. The Agency for International Development (hereinafter referred to as AID), which was established in the Department of State pursuant to State Department Delegation of Authority No. 104, as amended, shall be continued in existence within IDCA headed by an Administrator (hereinafter referred to as the Administrator), as provided in sections 103(a) and 103(b) of the Executive Order. All delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, designations, and other actions made, issued or entered into under authority existing prior to the date of the Executive Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Delegation of Authority shall continue in full force and effect until amended, modified or terminated by appropriate authority.

1–202. The officers provided for in section 1–103(c) of the Executive Order shall continue to exercise such functions as the Administrator deems appropriate.

1–3. Functions of the Administrator

1–301. Exclusive of the functions otherwise delegated or reserved to the Director of IDCA herein, there are hereby delegated to the Administrator:

(a) The functions conferred upon the Director of IDCA by subsections 1–102(a)(1)–(4) and section 1–601 of the Executive Order.

(b) The functions and authorities contained in sections 125(a), 601(a) through (d), and 601(e)(2) of the Act conferred upon the Director of IDCA by Section 6 of Reorganization Plan No. 2 of 1979.

1–4. Functions of the Director of the Institute for Scientific and Technological Cooperation

1–401. Exclusive of the functions otherwise delegated, or reserved to the Director of IDCA herein, there are hereby delegated to the Director of the Institute for Scientific and Technological Cooperation (hereinafter referred to as the Institute) the functions conferred upon the Director of IDCA by subsection 1–102(a)(5) of the Executive Order.

1–5. Functions Delegated to the Administrator and to the Director of the Institute

1–501. There are hereby delegated to the Administrator and to the Director of the Institute, respectively, the functions that relate to the administration of the programs of AID and the Institute, respectively, as follows:

(a) The functions under sections 297(d), 299(a) and 625(a) of the Act.

(b) The functions under section 625(d)(1) of the Act, as provided in section 1–602(a) of the Executive Order.

(c) The functions conferred upon the Director of IDCA by section 4 of Executive Order 11223, as amended.

(d) The functions conferred upon the Director of IDCA by the Determination of the President pursuant to section 604(a) of the Act, dated October 18, 1961, as amended.

(e) The functions of negotiating, concluding, and terminating international agreements pursuant to the Act, Title IV of the International Development Cooperation Act of 1979, or the Latin American Development Act, shall be subject to the requirements of 1 U.S.C. 112b and to applicable regulations and procedures.

1–6. Functions Delegated to the Overseas Private Investment Corporation

1–601. Exclusive of the functions otherwise delegated, or reserved to the Director of IDCA herein, there are hereby delegated to the Overseas Private Investment Corporation:

(a) The functions under sections 621(b), 625(d)(1), 627, 628, 629(b), 630 and 635(d) of the Act insofar as such functions relate to the operations of the Overseas Private Investment Corporation, its activities, or personnel.

(b) The functions under section 237(a) of the Act, provided that such functions shall be exercised in consultation with the Director of IDCA.

1–7. Allocation of Funds

1–701. There are hereby allocated to the Administrator all funds made available for carrying out the Act allocated to the Director of IDCA by section 1–801(a) of the Executive Order.

1–702. There are hereby allocated to the Director of the Institute all funds made available for carrying out title IV of the International Development Cooperation Act of 1979, allocated to the Director of IDCA by section 1–801(a) of the Executive Order.

1–8. Functions Reserved to the Director of IDCA

1–801. There are hereby reserved to the Director of IDCA the functions conferred upon the President by:

(a) Sections 102(c), 120(b), 125(b), 209(c)–(d), 298(c)(6), 298(d), 300, 305, 493, 621A, 631(c) and 634B of the Act.

(b) Section 625(a) of the Act, with respect to personnel in IDCA, other than as delegated in section 1–5 of this delegation.

(c) Sections 403(e) and 411 of the International Development Cooperation Act of 1979.

1–802. The functions contained in sections 109, 632(a) (insofar as they relate to allocation or transfer of funds) and 653 of the Act delegated herein shall be exercised in consultation with the Director of IDCA.

1–9.[1] Personnel Authorities

1–901. The authority of the Administrator and the Director under section 625(a) of the Act, with respect to personnel in AID and the Institute respectively, shall include any authority available to me under any statute, regulation, or delegation of authority, relating to any aspect of personnel authority or administration, including, but not limited to:

(a) The Act;

(b) The Foreign Service Act of 1980, Public Law 96–465, 94 Stat. 2071;

(c) Title 5 of the United States Code; and

(d) Delegations of Authority from the Office of Personnel Management.

1–10. General Provisions

1–1001. Any reference in this Delegation of Authority to any act, order, determination, or delegation of authority shall be deemed to be a reference to such act, order, determination, or delegation of authority as amended from time to time.

1–1002. Any reference in this Delegation of Authority to provisions of any appropriation act shall be deemed to include a reference to any hereafter enacted provisions of law which are the same or substantially the same as such appropriation act provisions.

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[1] The amendment of Oct. 31, 1980 (45 F.R. 74090) restated sec. 1–901. Such section formerly concerned only Foreign Service personnel authorities.

1–1003. The Administrator and the Director of the Institute may, to the extent consistent with law:

(a) Delegate or assign any of the functions delegated or assigned to them by this Delegation of Authority to any other officer of IDCA, including any component agency thereof, or to any officer of the Department of State; and

(b) Authorize any officer to whom functions are so delegated or assigned to successively redelegate or reassign any of such functions.

1–1004. Functions conferred by this delegation shall be carried out in consultation with the heads of other departments and agencies as provided in Section 605 of the Executive Order.

1–11. Effective Date

1–1101. This delegation shall become effective as of October 1, 1979, except that delegations to the Director of the Institute contained herein shall not become effective until so ordered by the Director of IDCA.

d. International Development Cooperation Agency Delegation of Authority No. 2

International Development Cooperation Agency Delegation of Authority No. 2, October 29, 1979, 44 F.R. 65485 as amended and restated by amendment No. 1 of January 19, 1981, 46 F.R. 9261

SUCCESSION TO THE OFFICE OF DIRECTOR

Pursuant to the authority vested in the Director of the United States International Development Cooperation Agency by Section 2 of Reorganization Plan No. 2 of 1979 (44 F.R. 41165), it is directed as follows:

In the event of the absence or disability of the Director and the Deputy Director of the United States International Development Cooperation Agency (IDCA) or of vacancies in both such offices, the following IDCA officials shall act as Director: the Administrator or Acting Administrator of the Agency for International Development, or an IDCA official formally designated by said Administrator or Acting Administrator.

This amendment is effective immediately.

e. Reorganization Plan No. 2 of 1979[1]

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 10, 1979, pursuant to the provisions of chapter 9 of title 5 of the United States Code[2]

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Section 1. Establishment of the United States International Development Cooperation Agency.—There is hereby established in the executive branch an independent agency to be known as the United States International Development Cooperation Agency (hereinafter referred to as the "Agency").

Sec. 2. Director.—The Agency shall be headed by the Director of the United States International Development Cooperation Agency (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed by law for Level II of the Executive Schedule. The Director shall have primary responsibility for establishing overall development assistance policy and coordinating international development activities supported by the United States. The Director shall serve as the principal advisor to the President and the Secretary of State on international development matters and also shall advise the President on all trade, science and technology, and other matters significantly affecting the developing nations. The Director shall report to the President and, on matters relating to foreign policy, to the Secretary of State. The Director shall designate the order in which other officials shall act for and exercise the powers of the Director during the absence or disability of the Director and the Deputy Director or in the event of vacancies in both such offices.

Sec. 3.[1] Deputy Director.—The President, by and with the advice and consent of the Senate, may appoint a Deputy Director of the Agency, who shall receive compensation at the rate prescribed by law for Level III of the Executive Schedule. The Deputy Director shall perform such duties and exercise such powers as the Director may from time to time prescribe and, in addition, shall act for and exercise the powers of the Director during the absence or disability of the Director or during a vacancy in such office.

Sec. 4.[1] Associate Directors.—The President, by and with the advice and consent of the Senate, may appoint two Associate Directors of the Agency, who shall perform such duties and exercise such powers as the Director may from time to time prescribe and who

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[1] 5 U.S.C. App.

[2] As amended May 21, 1979. Executive Order 12147, July 19, 1979 (44 F.R. 42957) specified that secs. 2, 3, and 4 of this plan would become effective immediately. Secs. 1, 5, 6, and 8 of the Plan became effective on Oct. 1, 1979, pursuant to Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673). For complete text of Executive Order 12163, Administration of Foreign Assistance and Related Functions, see page 330.

shall receive compensation at the rate prescribed by law for Level IV of the Executive Schedule.

Sec. 5. Performance of functions.—The Director may from time to time establish, alter, consolidate, or discontinue organizational units within the Agency (other than units expressly established by statute or reorganization plan). The Director may from time to time delegate responsibility for carrying out any function or authority of the Director of the Agency to any officer, employee, or unit of the Agency, or any other officer or agency of the executive branch.

Sec. 6. Transfers of functions.—(a) There are hereby transferred to the Director all functions and authorities vested in the Agency for International Development or in its administrator pursuant to the following:

(1) sections 233(b), 239(i), 296(e), 297(d), 298(c)(6), 299(d), 601 (a) through (d), and 624(f)(2)(C) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2193(b), 2199(i), 2220a(e), 2220b(d), 2220c(c)(6), 2220d(d), 2351 (a) through (d), and 2384(f)(2)(C));

(2) section 407 of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1736a); and

(3) section 706 of the Foreign Relations Authorization Act, Fiscal Year 1979 (49 U.S.C. 1518).

(b) There are hereby transferred to the Director all functions and authorities vested in the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, as amended, or in its Administrator pursuant to the following:

(1) sections 101(b), 119, 125, 531(a)(2), 601(e)(2), and 640B of such Act (22 U.S.C. 2151(b), 2151q, 2151w, 2346(a)(2), 2351(e)(2), and 2399c); and

(2) section 602 of the International Security Assistance and Arms Control Act of 1976 (22 U.S.C. 2352 note).

(c) There are hereby transferred to the Director all functions and authorities vested in the Secretary of State pursuant to the following:

(1) section 101(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151(b)), insofar as it relates to policy guidance other than foreign policy guidance, and section 622(c) of such Act (22 U.S.C. 2382(c)), insofar as it relates to development assistance; and

(2) section 901 of Public Law 95–118 (22 U.S.C. 262g).

Sec. 7. Abolition.—One of the positions that the President may appoint under section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a), 5 U.S.C. 5315(5)) is hereby abolished.

Sec. 8. Other transfers; interim officers.—(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions and authorities affected by the establishment of the Agency, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which

the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agency abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this reorganization plan.

(b) Pending the initial appointment of the Director, Deputy Director, and Associate Directors of the Agency, their functions and authorities may be performed, for up to 60 days after section 1 of this reorganization plan becomes effective, by such individuals as the President may designate. Any individual so designated shall be compensated at the rate provided herein for the position whose functions and authorities such individual performs.

Sec. 9. Effective date.—This reorganization plan shall become effective on July 1, 1980, or as such earlier time or times as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

f. Administration of Arms Export Controls

Executive Order 11958, January 18, 1977, 42 F.R. 4311,[1] as amended by Executive Order 12118, February 6, 1979, 44 F.R. 7939; Executive Order 12163, September 29, 1979, 44 F.R. 56673; Executive Order 12210, April 16, 1980, 45 F.R. 26313; Executive Order 12321, September 14, 1981, 46 F.R. 46109; Executive Order 12365, May 24, 1982, 47 F.R. 22933; Executive Order 12423, May 26, 1983, 48 F.R. 24025; Executive Order 12560, May 24, 1986, 51 F.R. 19160; Executive Order 12680, July 5, 1989, 54 F.R. 28996; Executive Order 12738, December 14, 1990, 55 F.R. 52033; and by Executive Order 13030, December 12, 1996, 61 F.R. 66187

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Delegation of Functions. The following functions conferred upon the President by the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), hereinafter referred to as the Act and related legislation,[2] are delegated as follows:

(a) Those under Section 3 of the Act, with the exception of subsections (a)(1), (b), (c)(3), (c)(4), and (f),[3] to the Secretary of State: *Provided*, That the Secretary of State, in the implementation of the functions delegated to him under Sections 3 (a) and (d) of the Act, is authorized to find, in the case of a proposed transfer of a defense article or related training or other defense service by a foreign country or international organization not otherwise eligible under Section 3(a)(1) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(b) Those under Section 5 to the Secretary of State.

(c) Those under Section 21 of the Act, with the exception of the last sentence of subsection (d) and all of subsection (i), to the Secretary of Defense.[4]

(d) Those under Sections 22(a), 29, 30 and 30A of the Act to the Secretary of Defense.[5]

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[1] 22 U.S.C. 2751 note. This Executive Order superseded Executive Order 11501, Dec. 22, 1969 (34 F.R. 20169), as amended by Executive Order 11685, Sept. 27, 1972 (37 F.R. 20155).

[2] Sec. 5 of Executive Order 12680, July 5, 1989 (54 F.R. 28996) added "and related legislation" and new par. (q) and (r).

[3] The reference to subsec. (f) was added by sec. 1–107 of Executive Order 12118, Feb. 6, 1979 (44 F.R. 7939).

[4] The reference to subsec. (i) was substituted in place of a reference to subsec. (h) by sec. 1–101 of Executive Order 12210, Apr. 16, 1980 (45 F.R. 26313).

[5] The reference to sec. 29 was added by sec. 2 of Executive Order 12321, Sept. 14, 1981 (46 F.R. 46109). The reference to sec. 30 was added by sec. 2 of Executive Order 12423, May 26, 1983 (48 F.R. 24025). The reference to sec. 30A was added by Executive Order 12560, May 24, 1986 (51 F.R. 19160).

(e)[6] Those under Section 23 of the Act and section 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), to the Secretary of Defense, to be exercised in consultation with the Secretary of State and the Secretary of the Treasury, except that the President shall determine any rate of interest to be charged which is less than the market rate of interest.

(f)[7] Those under Sections 24, 27 and 28 of the Act to the Secretary of Defense. The Secretary of Defense, in implementing the functions delegated to him under Sections 24[8] and 27, shall consult with the Secretary of State and the Secretary of the Treasury.

(g) Those under Section 25 of the Act to the Secretary of State. The Secretary of Defense and the Director of the Arms Control and Disarmament Agency, within their respective areas of responsibility, shall assist the Secretary of State in the preparation of materials for presentation to the Congress under that Section.

(h) Those under Section 34 of the Act to the Secretary of State. To the extent the standards and criteria for credit and guaranty transactions are based upon national security and financial policies, the Secretary of State shall obtain the prior concurrence of the Secretary of Defense and the Secretary of the Treasury, respectively.

(i) Those under Section 35(a) of the Act to the Secretary of State.

(j) Those under Sections 36(a) and 36(b)(1) of the Act, except with respect to the certification of an emergency as provided by subsection (b)(1), to the Secretary of Defense. The Secretary of Defense, in the implementation of the functions delegated to him under Sections 36 (a) and (b)(1) shall consult with the Secretary of State, who shall, with respect to matters related to subparagraphs (D) and (I) of Section 36(b)(1), consult with the Director of the Arms Control and Disarmament Agency. With respect to those functions under Sections 36(a) (5) and (6), the Secretary of Defense shall consult with the Director of the Office of Management and Budget.

(k) Those under Sections 36 (c) and (d) of the Act to the Secretary of State.

(l) Those under Section 38 of the Act:

(1) to the Secretary of State, except as otherwise provided in this subsection. Designations, including changes in designations, by the Secretary of State of items or categories of items which shall be considered as defense articles and defense services subject to export control under Section 38 shall have the concurrence of the Secretary of Defense. The authority to undertake activities to ensure compliance with established export

[6] Sec. 12 of Executive Order 12560, May 24, 1986 (51 F.R. 19160), amended and restated sec. 1(e). Previously, sec. 1(e) read as follows: "Those under Section 23 of the Act, with the exception of the function of certifying a rate of interest to the Congress as provided by paragraph (2) of that Section, to the Secretary of Defense.".

Sec. 6 of Executive Order 12680, July 5, 1989 (54 F.R. 28996), added reference to sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989. Sec. 6 of Executive Order 12738, December 14, 1990 (55 F.R. 52033), updated reference to the current Foreign Operations, Export Financing, and Related Programs Appropriations Act.

[7] The delegation of functions under secs. 27 and 28 were added by sec. 1–102 of Executive Order 12210, Apr. 16, 1980 (45 F.R. 26313).

[8] Sec. 24 and the reference to the Secretary of the Treasury were added by sec. 13 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

conditions may be redelegated to the Secretary of Defense, or to the head of another department or agency as appropriate, which shall exercise such functions in consultation with the Secretary of State;[9]

(2) to the Secretary of the Treasury, to the extent they relate to the control of the import of defense articles and defense services. In carrying out such functions, the Secretary of the Treasury shall be guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States. Designations including changes in designations, by the Secretary of the Treasury of items or categories of items which shall be considered as defense articles and defense services subject to import control under Section 38 of the Act shall have the concurrence of the Secretary of State and the Secretary of Defense;

(3) to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent such functions involve Section 38(e) of the Act and are agreed to by the Secretary of State and the Secretary of Commerce.

(m) Those under Section 39(b) of the Act to the Secretary of State. In carrying out such functions, the Secretary of State shall consult with the Secretary of Defense as may be necessary to avoid interference in the application of Department of Defense regulations to sales made under Section 22 of the Act.

(n)[10] Those under Section 40A of the Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), to the Secretary of State.

(o) Those under Sections 42 (c) and (f) of the Act to the Secretary of Defense. The Secretary of Defense shall obtain concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act.[11]

(p)[12] Those under Sections 52(b) and 53 of the Act to the Secretary of Defense.

(q)[13] Those under Sections 61 and 62(a) of the Act to the Secretary of Defense.

(r)[14] Those under Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) to the Secretary of State.

(s)[14] Those under Section 588(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), to the Secretary of Defense, except with respect to the determination of an emergency as provided by subsection (b)(3). The Secretary of Defense in implementation of the

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[9] Sec. 7 of Executive Order 12680, July 5, 1989 (54 F.R. 28996) added the second sentence.

[10] Sec. 2 of Executive Order 13030, December 12, 1996 (61 F.R. 66187) added subsec. (n) and redesignated former subsecs. (n) through (r) as subsecs. (o) through (s), respectively.

[11] This sentence was added by sec. 2(a) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[12] Subsec. (p), redesignated by Executive Order 13030 from subsec. (o), which was originally added by sec. 1–103 of Executive Order 12210, was amended and restated by sec. 2(b) of Executive Order 12365, May 24, 1982 (47 F.R. 22933). Previously, subsec. (o) delegated functions under sec. 43(c) of the Arms Export Control Act to the Secretary of Defense.

[13] Sec. 2(c) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), added this subsec.

[14] Sec. 5(2) of Executive Order 12680, July 5, 1989 (54 F.R. 28996) added subsecs. (r) and (s), redesignated from subsecs. (p) and (q) by Executive Order 13030.

functions delegated to him under section 588(b) shall consult with the Secretary of State.

Sec. 2. Coordination. (a) In addition to the specific provisions of Section 1 of this Order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this Order, shall consult with each other and with the heads of other departments and agencies, including the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency,[15] the Director of the Arms Control and Disarmament Agency, and the Chairman of the Export-Import Bank[16] on matters pertaining to their responsibilities.

(b) In accordance with Section 2(b) of the Act and under the directions of the President, the Secretary of State, taking into account other United States activities abroad, shall be responsible for the continuous supervision and general direction of sales and exports under the Act, including but not limited to, the negotiation, conclusion, and termination of international agreements, and determining whether there shall be a sale to a country and the amount thereof, and whether there shall be delivery or other performance under such sale or export, to the end that sales and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.

Sec. 3. Allocation of Funds. Funds appropriated to the President for carrying out the Act shall be deemed to be allocated to the Secretary of Defense without any further action of the President.

Sec. 4. Revocation. Executive Order No. 11501, as amended, is revoked; except that, to the extent consistent with this Order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements and other actions made, issued, taken or entered into under the provisions of Executive Order No. 11501, as amended, and not revoked, superseded or otherwise made inapplicable, shall continue in full force and effect until amended, modified or terminated by appropriate authority.

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[15] This reference to the Director of IDCA was substituted in lieu of a reference to the Administrator of AID by sec. 1–903(h)(4) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56679).

[16] Sec. 8 of Executive Order 12680, July 5, 1989 (54 F.R. 28996), added reference to the Chairman of the Export-Import Bank.

g. Overseas Private Investment Corporation

Executive Order 11579, January 19, 1971, 36 F.R. 969;[1] as amended by Executive Order 12107, December 28, 1978, 44 F.R. 1055; and by Executive Order 12163, September 29, 1979, 44 F.R. 56673

By virtue of the authority vested in me by the Foreign Assistance Act of 1961 (75 Stat. 424), as amended (hereinafter the "Act"), and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. Transfer to Overseas Private Investment Corporation. All obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b) and (d) of the Act are hereby transferred to the Overseas Private Investment Corporation (hereinafter the "Corporation").

Sec. 2. Delegation of functions. (a)[2] * * * [Revoked—1979]

(b) The function of prescribing regulations relating to the reinstatement or restoration of officers and employees of the Corporation to other government positions, when their appointment to a position in the Corporation was made from another government position and their separation from the Corporation was not made for cause, is hereby delegated to the Office of Personnel Management.[3]

Sec. 3. Allocation and transfer of funds. Funds made available under section 232 of the Act (repealed by section 105 of the Foreign Assistance Act of 1969) which are obligated but unexpended are hereby transferred to the Corporation.

Sec. 4. General provisions. (a) As used in this order, the words "function" or "functions" include any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(b) The Corporation shall be deemed to be the successor of the Agency for International Development and the Administrator thereof, with respect to all functions vested in the Corporation pursuant to law.

(c) Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

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[1] 22 U.S.C. 2191 note.

[2] Subsec. (a) was revoked by sec. 1–903(a)(2) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673).

[3] Sec. 2–101 of Executive Order 12107 struck out "Civil Service Commission" and inserted in lieu thereof "Office of Personnel Management".

(d) Executive Order No. 10973 of November 3, 1961, as amended,[4] is hereby superseded insofar as any provision therein is in conflict with any provision herein.

(e) The provisions of this order shall become effective upon adoption by the Board of Directors of bylaws for the Corporation.

[4] Revoked by Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673).

h. Performance of Functions Authorized by the Foreign Assistance Act of 1961, as Amended

Executive Order 11223, May 12, 1965, 30 F.R. 6635;[1] as amended by Executive Order 12163, September 29, 1979, 44 F.R. 56673; and by Executive Order 12178, December 10, 1979, 44 F.R. 71807

By virtue of the authority vested in me by section 633 of the Foreign Assistance Act of 1961, as amended, 75 Stat. 454 (22 U.S.C. 2393), it is hereby determined that, to the extent hereinafter indicated, the performance of functions authorized by that Act,[2] as amended, and any predecessor legislation, without regard to the laws specified in the numbered subdivisions of sections 1 and 2 of this order and without regard to consideration as specified in sections 3 and 4 of this order will further the purposes of the Foreign Assistance Act of 1961, as amended:

Section 1. With respect to functions authorized by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 et seq.), and any predecessor legislation except those functions exercised by the Department of Defense under authority of sections 621 and 623 of the Foreign Assistance Act of 1961 (22 U.S.C. 2381 and 2383):

(1) The Act of March 26, 1934, 48 Stat. 500, as amended (15 U.S.C. 616a).

(2) Section 3648 of the Revised Statutes, as amended, 60 Stat. 809 (31 U.S.C. 529).

(3) Section 305 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 396, as amended (41 U.S.C. 255).

(4) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

(5) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(6) Section 2 of title III of the Act of March 3, 1933, 47 Stat. 1520 (41 U.S.C. 10a).

(7) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(8) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)), but only with respect to contracts entered into with foreign governments or agencies thereof for the rendering of services to the United States or an agency thereof within the continental limits of the United States.

(9) Section 901(a) of the Merchant Marine Act, 1936, 49 Stat. 2015, as amended (46 U.S.C. 1241(a)).

Sec. 2. With respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under

[1] 22 U.S.C. 2393 note.

[2] Sec. 1–903(d) of Executive Order 12163 provided that the reference in this Executive Order "to 'the performance of functions authorized by this Act' shall be deemed to include the performance of functions authorized by sec. 403 of the IDC Act of 1979." Such sec. 403 of the International Development Cooperation Act of 1979 specified the functions of the Institute for Scientific and Technological Cooperation.

the Foreign Assistance Act of 1961, as amended, and any predecessor legislation:

(1) Section 2276(a) of Title 10 of the United States Code.

(2) Section 2313(b) of Title 10 of the United States Code.

(3) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)).

(4) Section 1301 of the Second War Powers Act, 1942, 56 Stat. 185 (50 U.S.C. App. 643), as extended by the provisions of the Act of June 30, 1953, 67 Stat. 120.

(5) Section 3(b) of the Act of August 28, 1958, 72 Stat. 972 (50 U.S.C. 1433(b)), but only with respect to contracts in which the inclusion of the clause required by section 3(b), or the compliance with that clause, if included in a contract, is deemed by the executive or military department concerned to be impracticable.

Sec. 3. With respect to cost-type contracts heretofore or hereafter made with non-profit institutions under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

Sec. 4. With respect to contracts heretofore or hereafter made, other than those described in section 3 of this order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State or the Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director)[3] determines in each case that such action is necessary to protect the foreign policy interests of the United States.

Sec. 5. Executive Order No. 10784 of October 1, 1958, and Executive Order No. 10845 of October 12, 1959, are hereby superseded.

Sec. 6.[4] I determine it to be in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended, and in the national security interest of the United States that the functions authorized by chapter 7 of Part II of that Act, relating to air base construction in Israel, be performed without regard to the following additional specified provisions of law:

(1) Title IX of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 541–544);

[3] The reference to the Director of IDCA was added by sec. 1–903(b)(5) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673).

[4] Sec. 6 was added by Executive Order 12178, Dec. 10, 1979 (44 F.R. 71807).

(2) Section 612 of the Military Construction Authorization Act, 1967, as amended (31 U.S.C. 723a);

(3) Section 719 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2168); and

(4) Section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759).

i. Foreign Disaster Assistance

Executive Order 12966, July 14, 1995, 60 F.R. 36949, 10 U.S.C. 404 note

By the authority vested in me as President by the Constitution and the laws of the United states of America, including the National Defense Authorization Act for Fiscal Year 1995, Public Law 103–337 (the "Act") and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. This order governs the implementation of section 404 of title 10, United States Code, as added by amendment set forth in section 1412(a) of the Act. Pursuant to 10 U.S.C. 404(a), the Secretary of Defense is hereby directed to provide disaster assistance outside the United States to respond to manmade or natural disasters when the Secretary of Defense determines that such assistance is necessary to prevent loss of lives. The Secretary of Defense shall exercise the notification functions required of the President by 10 U.S.C. 404(c).

Sec. 2. The Secretary of Defense shall provide disaster assistance only:

(a) at the direction of the President; or

(b) with the concurrence of the Secretary of State; or

(c) in emergency situations in order to save human lives, where there is not sufficient time to seek the prior initial concurrence of the Secretary of State, in which case the Secretary of Defense shall advise, and seek the concurrence of, the Secretary of State as soon as practicable thereafter. For the purpose of section 2(b) of this order, only the Secretary of State, or the Deputy Secretary of State, or persons acting in those capacities, shall have the authority to withhold concurrence. Concurrence of the Secretary of State is not required for the execution of military operations undertaken pursuant to, and consistent with, assistance provided in accordance with parts (b) and (c) of this section, or with respect to matters relating to the internal financial processes of the Department of Defense.

Sec. 3. In providing assistance covered by this order, the Secretary of Defense shall consult with the Administrator of the Agency for International Development, in the Administrator's capacity as the President's Special Coordinator for International Disaster Assistance.

Sec. 4. This order does not affect any activity or program authorized under any other provision of law, except that referred to in section 1 of this order.

Sec. 5. This order is effective at 12:01 a.m., e.d.t. on July 15, 1995.

3. Armed Forces Legislation

a. TITLE 10, UNITED STATES CODE

SUBTITLE A—GENERAL MILITARY LAW

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 2—DEPARTMENT OF DEFENSE

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§ 113.[1] Secretary of Defense * * *

(e)(1)[2] The Secretary shall include in his annual report to Congress under subsection (c)—

(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

(B) an explanation of the relationship of those military missions to that force structure; and

(C) the justification for those military missions and that force structure.

(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 108 of the National Security Act of 1947 for the fiscal year concerned.[3]

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(i)[4] (1)[5] The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the

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[1] Sec. 113 was originally codified at sec. 133 of 10 U.S.C. The Department of Defense Reorganization Act of 1986 (Public Law 99–433; 100 Stat. 1074) redesignated sec. 133 of 10 U.S.C. as sec. 113 and modified the section title.

[2] Subsec. (e) was comprehensively amended by sec. 603 of the DOD Reorganization Act of 1986 (Public Law 99–433; 100 Stat. 1074).

[3] Sec. 1070(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2855) struck out "section 104" and inserted in lieu thereof "section 108". For text of 108 of the National Security Act of 1947, 50 U.S.C. 404a, see *Legislation on Foreign Relations Through 1997*, vol. IV, sec. N.

[4] Sec. 1322(a)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1671) struck out previous subsec. (i) and redesignated subsecs. (j) through (l) as (i) through (k), respectively. Former subsec. (i) was originally enacted by sec. 1105 of the DOD Authorization Act, 1983 (Public Law 97–252; 96 Stat. 739) as subsec. (h) of sec. 138 (now sec. 114); and was redesignated as a subsec. of sec. 113 by the DOD Reorganization Act of 1986 (Public Law 99–433).

Subsec. (i), redesignated from subsec. (j) by sec. 1322(a)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1671), was added by sec. 1214 of the National Defense Authorization Act, 1988 and 1989 (Public Law 100–180; 101 Stat. 1157).

[5] Sec. 731 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2003), added the para. designation "(1)", and added new paras. (2) and (3).

United States and its allies as compared with those of their potential adversaries.[6]

(2)[5] Each such report shall—

(A) include a comparison of the defense capabilities and programs of the armed forces of the United state and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

(B) include an examination of the trends experienced in those capabilities and programs during the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221[7] the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during of this title;

(C)[8] include a description of the means by which the Department of Defense will maintain the capability to reconstitute or expand the defense capabilities and programs of the armed forces of the United States on short notice to meet a resurgent or increased threat to the national security of the United States;

(D)[8] reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

(E)[8] identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

(3)[5] The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.

(j)[9] (1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the[10]

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[6] Sec. 731 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2003), struck out the following sentence at this point: "Each such report shall be transmitted in both a classified and an unclassified form.".

[7] Sec. 1503(a)(1) of the National Defense Authorization Act for Fiscal year 1996 (Public Law 104–106; 110 Stat. 510) struck out "the five years covered by the five-year defense program submitted to Congress during that year pursuant to section 114(g)" and inserted in lieu thereof "the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221".

Previously amended by sec. 1622 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1604).

[8] Sec. 341 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1343) redesignated subpars. (C) and (D) as (D) and (E), respectively, and added a new subpar. (C).

[9] Sec. 1(o)(1) of Public Law 100–370 (102 Stat. 850) added subsec. (j) as (k), redesignated as subsec. (j) by the National Defense Authorization Act of 1991 (Public Law 101–510; 104 Stat. 1671).

[10] Sec. 1502(a)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat 502) struck out "Committees on Armed Services and Committees on Appropriations of the Senate and" and inserted in lieu thereof "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the".

House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

(C) The effect of such expenditures outside the United States on the balance of payments of the United States.

(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.

(3) In this subsection, the term "United States", when used in a geographic sense, includes the territories and possessions of the United States.

(k)[11] The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.

§ 114.[12] Annual authorization of appropriations * * *

(c)[13] (1)[14] The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $1,070,000,000.[15]

(2)[14] (2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

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[11] Sec. 1101 of Public Law 100–456 (102 Stat. 2042) added subsec. (l), redesignated as subsec. (k) by the National Defense Authorization Act of 1991 (Public Law 101–510; 104 Stat. 1671).

[12] Sec. 114 was originally codified at sec. 138 of 10 U.S.C. Public Law 99–433 (Department of Defense Reorganization Act of 1986) redesignated sec. 138 of 10 U.S.C. as sec. 114 and modified the section title.

[13] Subsec. (c) was originally enacted by sec. 108(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 96 Stat. 1519) and codified at subsec. (g) of sec. 138 (now 114). Public Law 99–433 redesignated subsec. (g) as subsec. (c).

[14] Sec. 1481(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1704) added par. designation (1) in subsec. (c) and added new par. (2).

[15] Earlier limits included program ceilings of $300,000,000 for fiscal year 1982; $600,000,000 for fiscal year 1983 and $900,000 for fiscal year 1984 and any fiscal year thereafter. Sec. 1403 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 743), changed the amount of the program ceiling to $1,000,000,000. Sec. 1304(a) of Public Law 99–661 increased the ceiling to $1,070,000,000. For the text of chapter 5 of the Arms Export Control Act, see *Legislation on Foreign Relations Through 1997*, vol. I—A.

(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.

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§ 117.[16] * * * [Repealed—1990]

§ 118.[17] * * * [Repealed—1990]

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CHAPTER 3—GENERAL POWERS AND FUNCTIONS

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§ 123a.[18] Suspension of end-strength limitations in time of war or national emergency

If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year.

§ 123b.[19] Forces stationed abroad: limitation on number

(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

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[16] Sec. 117 was repealed by sec. 1301(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1668). Sec. 117 had required an annual report on North Atlantic Treaty Organization readiness, to be prepared by the Secretary of Defense and submitted to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives. Sec. 117 was originally enacted as sec. 808 of Public Law 96–107 (DOD Authorization Act, 1980). Public Law 97–295 (96 Stat. 1287) made technical changes to the text of sec. 808, codified it at 10 U.S.C. 133a, and repealed sec. 808 of Public Law 96–107. The Department of Defense Reorganization Act of 1986 (Public Law 99–433) redesignated sec. 133a as sec. 117 and modified the section title.

[17] Sec. 118 was repealed by sec. 1301(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1668). Sec. 118 had required the Secretary of Defense to report to Congress the possible impact of any defense article transfer or sale valued at $50,000,000 or more. Sec. 118 was originally enacted as sec. 813 of Public Law 94–106 (DOD Authorization Act, 1976). Sec. 814 of Public Law 95–79 (DOD Authorization Act, 1978) amended sec. 813 by adding the requirement for information contained in par. (3). Sec. 1104 of Public Law 97–252 (DOD Authorization Act, 1983) further amended sec. 813 by increasing the dollar amount specified in the first sentence from $25,000,000 to $50,000,000. Public Law 97–295 (96 Stat. 1287) made technical changes to the text of sec. 813, codified it at 10 U.S.C. 133b, and repealed sec. 813 of Public Law 94–106, sec. 814 of Public Law 95–79, and sec. 1104 of Public Law 97–252. The Department of Defense Reorganization Act of 1986 (Public Law 99–433) redesignated sec. 133b of 10 U.S.C. as sec. 118.

[18] Added by sec. 1483(b)(1) of Public Law 101–510 (104 Stat. 1715).

[19] Added by 1312(a) of Public Law 103–337 (108 Stat. 2894). Subsec. (b) of that section provided the following:

"(b) EFFECTIVE DATE.—Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.".

(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.

§ 124.[20] Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

(a) LEAD AGENCY.—(1)[21] The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2)[21] The responsibility conferred by paragraph (1) shall be carried out in support of the counter-drug activities of Federal, State, local, and foreign law enforcement agencies.

(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) UNITED STATES DEFINED.—In this section, the term "United States" means the land area of the several States and any territory, commonwealth, or possession of the United States.

* * * * * * *

§ 127a.[22] Operations for which funds are not provided in advance: funding mechanisms

(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

(A) the deployment (other than for a training exercise) of elements of the Armed Forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to—

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[20] Sec. 1202(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1563) added sec. 124.

See also Sec. 1043 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2492).

[21] Sec. 1088(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1485) added par. designation (1) and added new par. (2).

[22] Sec. 127a was amended and restated by sec. 1003(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 415). It was originally added by sec. 1108(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1751).

(A) any operation the incremental cost of which is expected to exceed $50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of $100,000,000.

Any operation the incremental cost of which is expected not to exceed $10,000,000 shall be disregarded for the purposes of subparagraph (B).

(3) Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation).

(4) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the Armed Forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the Armed Forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is $200,000,000.

(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of

amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) REPORT UPON DESIGNATION OF AN OPERATION.—Within 45 days after the Secretary of Defense identifies an operation pursuant to subsection (a)(2), the Secretary of Defense shall submit to Congress a report that sets forth the following:

(1) The manner by which the Secretary proposes to obtain funds for the cost to the United States of the operation, including a specific discussion of how the Secretary proposes to restore balances in—

(A) the Defense Business Operations Fund (or a successor fund), or

(B) the accounts from which the Secretary transfers funds under the authority of subsection (c), to the levels that would have been anticipated but for the provisions of subsection (c).

(2) If the operation is described in subsection (a)(1)(B), a justification why the budgetary resources of another department or agency of the Federal Government, instead of resources of the Department of Defense, are not being used for carrying out the operation.

(3) The objectives of the operation.

(4) The estimated duration of the operation and of any deployment of armed forces personnel in such operation.

(5) The estimated incremental cost of the operation to the United States.

(6) The exit criteria for the operation and for the withdrawal of the elements of the armed forces involved in the operation.

(e) LIMITATIONS.—(1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(f) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal

year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

(g) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

(i) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

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CHAPTER 6—COMBATANT COMMANDS

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§ 168.[23] Military-to-military contacts and comparable activities

(a) PROGRAM AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

(1) The commander of a combatant command, upon the request of the commander.

(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

(3) The head of any Department of Defense component.

(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use those funds for the following activities and expenses:

(1) The activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities.

(2) The activities of military liaison teams.

[23] Added by sec. 1316(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2898). See also sec. 1082 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2672; 10 U.S.C. 168 note).

(3) Exchanges of civilian or military personnel between the Department of Defense and defense ministries of foreign governments.

(4) Exchanges of military personnel between units of the armed forces and units of foreign armed forces.

(5) Seminars and conferences held primarily in a theater of operations.

(6) Distribution of publications primarily in a theater of operations.

(7) Personnel expenses for Department of Defense civilian and military personnel to the extent that those expenses relate to participation in an activity described in paragraph (3), (4), (5), or (6).

(8) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any activity referred to in another paragraph of this subsection.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for an activity or expense referred to in subsection (c) shall be in addition to amounts otherwise available for those activities and expenses for that fiscal year.

(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

(A) funding was proposed in the budget submitted to Congress for that fiscal year pursuant to section 1105(a) of title 31; and

(B) Congress did not authorize appropriations.

(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

(3) Funds may not be provided under this section for a fiscal year for any country that is not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

(4) Except for those activities specifically authorized under subsection (c), funds may not be used under this section for the provision of defense articles or defense services to any country or for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

(f)[24] ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component referred to in paragraph (2) shall not be counted for purposes of the following personnel strength limitations:

(A) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to in paragraph (2).

(B) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

[24] Sec. 416 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 289) redesignated subsec. (f) as subsec. (g) and added a new subsec. (f).

(C) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.

(2) A member of a reserve component referred to in paragraph (1) is any member on active duty under an order to active duty for 180 days or more who is engaged in activities authorized under this section.

(g)[24] MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term "military-to-military contacts" means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).

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CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

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§ 182.[25] Center for Excellence in Disaster Management and Humanitarian Assistance

(a) ESTABLISHMENT.—The Secretary of Defense may operate a Center for Excellence in Disaster Management and Humanitarian Assistance (in this section referred to as the "Center").

(b) MISSIONS.—(1) The Center shall be used to provide and facilitate education, training, and research in civil-military operations, particularly operations that require international disaster management and humanitarian assistance and operations that require coordination between the Department of Defense and other agencies.

(2) The Center shall be used to make available high-quality disaster management and humanitarian assistance in response to disasters.

(3) The Center shall be used to provide and facilitate education, training, interagency coordination, and research on the following additional matters:

(A) Management of the consequences of nuclear, biological, and chemical events.

(B) Management of the consequences of terrorism.

(C) Appropriate roles for the reserve components in the management of such consequences and in disaster management and humanitarian assistance in response to natural disasters.

(D) Meeting requirements for information in connection with regional and global disasters, including the use of advanced communications technology as a virtual library.

(E) Tropical medicine, particularly in relation to the medical readiness requirements of the Department of Defense.

(4) The Center shall develop a repository of disaster risk indicators for the Asia-Pacific region.

(5) The Center shall perform such other missions as the Secretary of Defense may specify.

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[25] Added by sec. 382(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1709). Subsec. (b) of that section provided the following:

"(b) FUNDING FOR FISCAL YEAR 1998.—Of the funds authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for the operation of the Center for Excellence in Disaster Management and Humanitarian Assistance established under section 182 of title 10, United States Code, as added by subsection (a).".

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Secretary of Defense may enter into an agreement with appropriate officials of an institution of higher education to provide for joint operation of the Center. Any such agreement shall provide for the institution to furnish necessary administrative services for the Center, including administration and allocation of funds.

(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Secretary of Defense may accept, on behalf of the Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Such donations may be accepted from any agency of the Federal Government, any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any other private source in the United States or a foreign country.

(2) The Secretary may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or members of the armed forces, to carry out any responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department of Defense or of any person involved in such a program.

(3) The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a foreign donation would have a result described in paragraph (2).

(4) Funds accepted by the Secretary under paragraph (1) as a donation on behalf of the Center shall be credited to appropriations available to the Department of Defense for the Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

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CHAPTER 18—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

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§ 371.[26] Use of information collected during military operations

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

[26] Sec. 1104 of Public Law 100–456 (102 Stat. 2042) substantially revised Chapter 8–Military Support for Civilian Law Enforcement Agencies. Secs. 371 through 380 were enacted by this sec. 1104.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

§ 372.[26] Use of military equipment and facilities

(a)[27] IN GENERAL.—The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(b)[27] EMERGENCIES INVOLVING CHEMICAL AND BIOLOGICAL AGENTS.—(1) In addition to equipment and facilities described in subsection (a), the Secretary may provide an item referred to in paragraph (2) to a Federal, State, or local law enforcement or emergency response agency to prepare for or respond to an emergency involving chemical or biological agents if the Secretary determines that the item is not reasonably available from another source. The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.[28]

(2) An item referred to in paragraph (1) is any material or expertise of the Department of Defense appropriate for use in preparing for or responding to an emergency involving chemical or biological agents, including the following:

(A) Training facilities.

(B) Sensors.

(C) Protective clothing.

(D) Antidotes.

§ 373.[26] Training and advising civilian law enforcement officials

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

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[27] Sec. 378 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 284) added "(a) IN GENERAL.—" and added subsec. (b).

[28] Sec. 1416(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2723) added the last sentence to subsec. (b)(1).

§ 374.[26, 29] Maintenance and operation of equipment

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A); or

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B)[30] Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C)[30] Aerial reconnaissance.

(D)[30] Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E)[30] Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F)[30] Subject to joint approval by the Secretary of Defense[31] and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel; and

(ii) the operation of a base of operations for civilian law enforcement personnel.

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[29] Sec. 8071(a) of Public Law 105–56 (111 Stat. 1235; 10 U.S.C. 374 note) provided the following:

"SEC. 8071. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counterdrug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.".

[30] Sec. 1042(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2492) redesignated subpars. (B) through (E) as (C) through (F) and added a new subpar. (B).

[31] Sec. 1210 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1566) inserted text from this point to close parentheses, in lieu of ", the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States".

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D)[32] may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term 'Federal law enforcement agency' means an agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States)[33] or any other territory or possession of the United States.

(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(B) The term 'land area of the United States' includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsec. (b)(2)[34] only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

§ 375.[26] Restriction on direct participation by military personnel

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity[35] (including the provision of any equipment or facility or the assignment or detail of any personnel)[36] under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest,[37] or other similar activity unless participation in such activity by such member is otherwise authorized by law.

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[32] Sec. 1042(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2492) struck "paragraph (2)(C)" and inserted in lieu thereof "paragraph (2)(D)" to conform with amendments in par. (2).

[33] Sec. 1216(b) of Public Law 101–189 (103 Stat. 1569) made technical corrections to the parenthetical text. It formerly referred to the "general headnote 2 of the Tariff Schedules of the United States".

[34] Sec. 1216(c) of Public Law 101–189 (103 Stat. 1569) made technical corrections here. Formerly referred to "paragraph (2)".

[35] Sec. 1211(1) of Public Law 101–189 (103 Stat. 1567) inserted "any activity" in lieu of "the provision of any support".

[36] Sec. 1211(2) of Public Law 101–189 (103 Stat. 1567) struck out "to any civilian law enforcement official" at this point.

[37] Sec. 1211(3) of Public Law 101–189 (103 Stat. 1567) inserted "a search, seizure, arrest," in lieu of "a search and seizure, an arrest,".

§ 376.[26] Support not to affect adversely military preparedness

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

§ 377.[26] Reimbursement

(a) To the extent otherwise required by section 1535 of title 31 (popularly known as the 'Economy Act') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b) An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

§ 378.[26] Nonpreemption of other law

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

§ 379.[26] Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such per-

sonnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

§ 380.[26] Enhancement of cooperation with civilian law enforcement officials

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials—

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall—

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

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§ 382.[38] Emergency situations involving chemical or biological weapons of mass destruction

(a) IN GENERAL.—The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175 or 2332c of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

[38] Added by sec. 1416(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2721).

(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

(b) EMERGENCY SITUATIONS COVERED.—In this section, the term "emergency situation involving a biological or chemical weapon of mass destruction" means a circumstance involving a biological or chemical weapon of mass destruction—

(1) that poses a serious threat to the interests of the United States; and

(2) in which—

(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

(C) enforcement of section 175 or 2332c of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175 or 2332c of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Sec-

retary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before September 23, 1996.[39]

CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE[40]

§ 401.[41] Humanitarian and civic assistance provided in conjunction with military operations

(a)(1) Under regulations prescribed by the Secretary of Defense,[42] the Secretary of a military department may carry out humani-

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[39] Sec. 1073(a)(6) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1900) struck out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997" and inserted in lieu thereof "September 23, 1996".

[40] Sec. 571(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 353) struck out subchapter headings I and II in chapter 20. Subchapter I marked secs. 401–404 as relating to humanitarian assistance.

[41] Sec 401 was originally enacted by Sec. 333 of Public Law 99–661 (100 Stat. 3816), and codified at sections 401 through 406 of 10 U.S.C. The National Defense Authorization Act, 1988 and 1989 (Public Law 100–180), consolidated sections 401–406 into sec. 401, made technical changes and modified the section title.

Sec. 8009 of Public Law 105–56 (111 Stat. 1222; 10 U.S.C. 401 note) provided the following:

"SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.".

[42] Sec. 1504 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) provided the following:

"SEC. 1504. HUMANITARIAN AND CIVIC ASSISTANCE.

"(a) REGULATIONS.—The regulations required to be prescribed under section 401 of title 10, United States Code, shall be prescribed not later than March 1, 1994. In prescribing such regulations, the Secretary of Defense shall consult with the Secretary of State.

"(b) LIMITATION ON USE OF FUNDS.—Section 401(c)(2) of title 10, United States Code, is amended by inserting before the period the following: ', except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance'.

tarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

(A) the security interests of both the United States and the country in which the activities are to be carried out; and

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian and civic assistance activities carried out under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

(3) Humanitarian and civic assistance may not be provided under this section (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

(4)[43] The Secretary of Defense shall ensure that no member of the armed forces,[44] while providing assistance under this section that is described in subsection (e)(5)—

(A) engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(B) provides such assistance as part of a military operation that does not involve the armed forces.[44]

(b)(1)[45] Humanitarian and civic assistance may not be provided under this section to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

(2)[45] Any authority provided under any other provision of law to provide assistance that is described in subsection (e)(5) to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section. Any such provision may be construed as superseding a provision of this section only if, and to

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"(c) NOTIFICATIONS REGARDING HUMANITARIAN RELIEF.—Any notification provided to the appropriate congressional committees with respect to assistance activities under section 2551 of title 10, United States Code, shall include a detailed description of any items for which transportation is provided that are excess nonlethal supplies of the Department of Defense, including the quantity, acquisition value, and value at the time of the transportation of such items.

"(d) REPORT ON HUMANITARIAN ASSISTANCE ACTIVITIES.—(1) The Secretary of Defense shall submit to the appropriate congressional committees a report on the activities planned to be carried out by the Department of Defense during fiscal year 1995 under sections 401, 402, 2547, and 2551 of title 10, United States Code. The report shall include information, developed after consultation with the Secretary of State, on the distribution of excess nonlethal supplies transferred to the Secretary of State during fiscal year 1993 pursuant to section 2547 of that title.

"(2) The report shall be submitted at the same time that the President submits the budget for fiscal year 1995 to Congress pursuant to section 1105 of title 31, United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS.—The funds authorized to be appropriated by section 301(18) shall be available to carry out humanitarian and civic assistance activities under sections 401, 402, and 2551 of title 10, United States Code.

"(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

"(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.".

[43] Sec. 1313(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475) added para. (4).

[44] Sec. 1074(a)(2)(A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2658) struck out "Armed Forces" and inserted in lieu thereof "armed forces".

[45] Sec. 1304(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2704) inserted para. designation "(1)" for subsec. (b), and added a new para. (2).

the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable under such provision.

(c)(1) Expenses incurred as a direct result of providing humanitarian and civic assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

(2)[46] Expenses covered by paragraph (1) include the following expenses incurred in providing assistance described in subsection (e)(5):

(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting the activities described in subsection (e)(5), including any nonlethal, individual, or small-team landmine clearing equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

(3)[46] The cost of equipment, services, and supplies provided in any fiscal year under paragraph (2)(B) may not exceed $5,000,000.

(4)[46] Nothing in this section may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to paragraph (1),[47] except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance.[48]

(d) The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations[49] of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this section during the preceding fiscal year. The Secretary shall include in each such report—

(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

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[46] Sec. 1304(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2704) redesignated para. (2) as para. (4), and added new paras. (2) and (3).

[47] Sec. 1233(g)(1) of Public Law 100–456 (102 Stat. 2058) struck out "subsection (1)" at this point and inserted "paragraph (1)".

[48] Sec. 1504(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) inserted ", except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance".

[49] Sec. 1502((a)(8) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) struck out "submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs" and inserted in lieu thereof "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations".

(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

(e)[50] In this section, the term "humanitarian and civic assistance" means any of the following:[51]

(1) Medical, dental, and veterinary care provided in rural areas of a country.

(2) Construction of rudimentary surface transportation systems.

(3) Well drilling and construction of basic sanitation facilities.

(4) Rudimentary construction and repair of pubic facilities.

(5) Detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines.".

(f) Not more than $16,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.

§ 402.[52] Transportation of humanitarian relief supplies to foreign countries

(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—

(A) the transportation of such supplies is consistent with the foreign policy of the United States;

(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such supplies by the people for whom they are intended;

(D) the supplies will in fact be used for humanitarian purposes; and

(E) adequate arrangements have been made for the distribution of such supplies in the destination country.

(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

(3) It shall be the responsibility of the donor to ensure that supplies to be transported under this section are suitable for transport.

(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization.

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[50] Sec. 1313(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475) made technical amendments to subsec. (e) and added a new para. (5).

[51] Sec. 1074(a)(2)(B) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2658) added "any of the following" after "means".

[52] Sec. 402 was enacted by sec. 332 of the National Defense Authorization Act, FY 1988–89 (Public Law 100–180; 101 Stat. 1079).

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

(d) Not later than July 31 each year,[53] the Secretary of State shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations[54] of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during the 12–month period ending on the preceding June 30.[53]

§ 403.[55] * * * [Repealed—1996]

§ 404.[56] Foreign disaster assistance

(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assistance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives.

(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

(c) NOTIFICATION REQUIRED.—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

(1) The manmade or natural disaster for which disaster assistance is necessary.

(2) The threat to human lives presented by the disaster.

(3) The United States military personnel and material resources that are involved or expected to be involved.

(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

(5) The anticipated duration of the disaster assistance activities.

(d) ORGANIZING POLICIES AND PROGRAMS.—Amounts appropriated to the Department of Defense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies

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[53] Sec. 1311(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1669) struck out "At the end of each six-month period" and inserted "Not later than July 31 each year" at the beginning of this paragraph; and struck out "such six-month period" at the end, inserting in lieu thereof "the 12–month period ending on the preceding June 30".

[54] Sec. 1502((a)(8) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) struck out "submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs" and inserted in lieu thereof "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations".

[55] Sec. 403, relating to international peacekeeping activities, was repealed by sec. 1061(g)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 443). It was originally added by sec. 1342(c)(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2557).

[56] Added by sec. 1412(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2912).

and programs for disaster relief programs for disasters occurring outside the United States.

§ 405.[57] Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

(1) for the costs of a United Nations peacekeeping activity; or

(2) for any United States arrearage to the United Nations.

(b) APPLICATION OF PROHIBITION.—The prohibition in subsection (a) applies to voluntary contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.

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PART II—PERSONNEL

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CHAPTER 38—JOINT OFFICER MANAGEMENT

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§ 691.[58] Permanent end strength levels to support two major regional contingencies

(a) The end strengths specified in subsection (b) are the minimum strengths necessary to enable the armed forces to fulfill a national defense strategy calling for the United States to be able to successfully conduct two nearly simultaneous major regional contingencies.

(b) Unless otherwise provided by law, the number of members of the armed forces (other than the Coast Guard) on active duty at the end of any fiscal year shall be not less than the following:

(1) For the Army, 495,000.

(2) For the Navy, 390,802.[59]

(3) For the Marine Corps, 174,000.

(4) For the Air Force, 371,577.[60]

(c)[61] The budget for the Department of Defense for any fiscal year as submitted to Congress shall include amounts for funding for each of the Armed forces (other than the Coast Guard) at least in the amounts necessary to maintain the active duty end

[57] Sec. 405 was added by sec. 1301(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 473).

[58] Added by sec. 401(b)(1) of Public Law 104–106 (110 Stat. 285).

[59] Sec. 402(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1719) struck out "395,000" and inserted in lieu thereof "390,802".

[60] Sec. 402(a)(2) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1719) struck out "381,000" and inserted in lieu thereof "371,577".

[61] Sec. 402 of Public Law 104–201 (110 Stat. 2503) struck out former subsec. (c), redesignated former subsecs. (d) and (e) as subsecs. (e) and (f), respectively, and added new subsecs. (c) and (d).

strengths prescribed in subsection (b), as in effect at the time that such budget is submitted.

(d) No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces (other than the Coast Guard) for any fiscal year below the level specified in subsection (b) unless the reduction in end strength for that armed force for that fiscal year is specifically authorized by law.

(e) For a fiscal year for which the active duty end strength authorized by law pursuant to section 115(a)(1)(A) of this title for any of the armed forces is identical to the number applicable to that armed force under subsection (b), the Secretary of Defense may reduce that number by not more than 1 percent[62] or, in the case of the Army, by not more than 1.5 percent.[63]

(f) The number of members of the armed forces on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

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§ 1060.[64] Military service of retired members with newly democratic nations: consent of Congress

(a) CONSENT OF CONGRESS.—Subject to subsection (b), Congress consents to a retired member of the uniformed services—

(1) accepting employment by, or holding an office or position in, the military forces of a newly democratic nation; and

(2) accepting compensation associated with such employment, office, or position.

(b) APPROVAL REQUIRED.—The consent provided in subsection (a) for a retired member of the uniformed services to accept employment or hold an office or position shall apply to a retired member

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[62] Sec. 402 of Public Law 104–201 (110 Stat. 2503) struck out "0.5 percent" and inserted in lieu thereof "1 percent".

[63] Sec. 402(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1719) added "or, in the case of the Army, by not more than 1.5 percent".

[64] Added as sec. 1058 by sec. 1433(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1833). Redesignated as sec. 1060 by sec. 1070(a)(6)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2855).

Originally, this section became effective January 1, 1993, pursuant to sec. 1433(d) of Public Law 103–160.. Subsec. (d) was subsequently repealed by sec. 182(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 1078 Stat. 418). Subsec. (a) of that section, however, provided: "With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense has approved the employment or the holding of a position pursuant to the provisions of section 1058, title 10, United States Code, before the date of enactment of this Act, the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993.".

Sec. 1433(a) of Public Law 103–160 provided:

"(a) FINDINGS.—The Congress makes the following findings:

"(1) It is in the national security interest of the United States to promote democracy throughout the world.

"(2) The armed forces of newly democratic nations often lack the democratic traditions that are a hallmark of the Armed Forces of the United States.

"(3) The understanding of military roles and missions in a democracy is essential for the development and preservation of democratic forms of government.

"(4) The service of retired members of the Armed Forces of the United States in the armed forces of newly democratic nations could lead to a better understanding of military roles and missions in a democracy.".

only if the Secretary concerned and the Secretary of State jointly approve the employment or the holding of such office or position.

(c) DETERMINATION OF NEWLY DEMOCRATIC NATIONS.—The Secretary concerned and the Secretary of State shall jointly determine whether a nation is a newly democratic nation for the purposes of this section.

(d) REPORTS TO CONGRESSIONAL COMMITTEES.—The Secretary concerned and the Secretary of State shall notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations[65] of the House of Representatives of each approval under subsection (b) and each determination under subsection (c).

(e) CONTINUED ENTITLEMENT TO RETIRED PAY AND BENEFITS.—The eligibility of a retired member to receive retired or retainer pay and other benefits arising from the retired member's status as a retired member of the uniformed services, and the eligibility of dependents of such retired member to receive benefits on the basis of such retired member's status as a retired member of the uniformed services, may not be terminated by reason of employment or holding of an office or position consented to in subsection (a).

(f) RETIRED MEMBER DEFINED.—In this section, the term "retired member" means a member or former member of the uniformed services who is entitled to receive retired or retainer pay.

(g) CIVIL EMPLOYMENT BY FOREIGN GOVERNMENTS.—For a provision of law providing the consent of Congress to civil employment by foreign governments, see section 908 of title 37.

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CHAPTER 89—VOLUNTEERS INVESTING IN PEACE AND SECURITY * * * [Repealed—1996][66]

PART III—TRAINING AND EDUCATION

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CHAPTER 101—TRAINING GENERALLY

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§ 2010.[67] Participation of developing countries in combined exercises: payment of incremental expenses

(a) The Secretary of Defense, after consultation with the Secretary of State, may pay the incremental expenses of a developing country that are incurred by that country as the direct result of participation in a bilateral or multilateral military exercise if—

[65] Sec. 1502(a)(13) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) struck out "Committee on Armed Services and the Committee on Foreign Affairs" and inserted in lieu thereof "Committee on National Security and the Committee on International Relations".

[66] Chapter 89, authorizing the Secretary of Defense to establish a volunteer program to assist independent states of the former Soviet Union, was repealed by sec. 1061(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 442). Sec. 1805 of this chapter had provided that selection of volunteers would terminate on September 30, 1995.

[67] Sec. 2010 was added by sec. 1321 of Public Law 99–661 (100 Stat. 3816).

(1) the exercise is undertaken primarily to enhance the security interests of the United States; and

(2) the Secretary of Defense determines that the participation by such country is necessary to the achievement of the fundamental objectives of the exercise and that those objectives cannot be achieved unless the United States provides the incremental expenses incurred by such country.

(b) The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

(2) the amounts expended on behalf of each government.

(c) The Secretary of Defense shall establish by regulation such accounting procedures as may be necessary to ensure that funds expended under this section are properly expended.

(d) In this section, the term "incremental expenses" means the reasonable and proper cost of the goods and services that are consumed by a developing country as a direct result of that country's participation in a bilateral or multilateral military exercise with the United States, including rations, fuel, training ammunition, and transportation. Such term does not include pay, allowances, and other normal costs of such country's personnel.

(e)[68] * * * [Repealed—1997]

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§ 2011.[69] Special operations forces: training with friendly foreign forces

(a)[70] AUTHORITY TO PAY TRAINING EXPENSES.—Under regulations prescribed pursuant to subsection (c), the commander of the special operations command established pursuant to section 167 of this title and the commander of any other unified or specified combatant command may pay, or authorize payment for, any of the following expenses:

(1) Expenses of training special operations forces assigned to that command in conjunction with training, and training with, armed forces and other security forces of a friendly foreign country.

(2) Expenses of deploying such special operations forces for that training.

(3) In the case of training in conjunction with a friendly developing country, the incremental expenses incurred by that country as the direct result of such training.

(b) PURPOSE OF TRAINING.—The primary purpose of the training for which payment may be made under subsection (a) shall be to train the special operations forces of the combatant command.

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[68] Sec. 1073(a)(35) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1902) repealed subsec. (e), which had read as follows:

"(e) Not more than $13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.".

[69] Added by sec. 1052(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1470).

[70] Sec. 1503(a)(18) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 512) capitalized the word "To" in the catchline of subsec. (a).

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall establish accounting procedures to ensure that the expenditures pursuant to this section are appropriate.

(d) DEFINITIONS.—In this section:

(1) The term "special operations forces" includes civil affairs forces and psychological operations forces.

(2) The term "incremental expenses", with respect to a developing country, means the reasonable and proper cost of rations, fuel, training ammunition, transportation, and other goods and services consumed by such country, except that the term does not include pay, allowances, and other normal costs of such country's personnel.

(e) REPORTS.—Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report regarding training during the preceding fiscal year for which expenses were paid under this section. Each report shall specify the following:

(1) All countries in which that training was conducted.

(2) The type of training conducted, including whether such training was related to counter-narcotics or counter-terrorism activities, the duration of that training, the number of members of the armed forces involved, and expenses paid.

(3) The extent of participation by foreign military forces, including the number and service affiliation of foreign military personnel involved and physical and financial contribution of each host nation to the training effort.

(4) The relationship of that training to other overseas training programs conducted by the armed forces, such as military exercise programs sponsored by the Joint Chiefs of Staff, military exercise programs sponsored by a combatant command, and military training activities sponsored by a military department (including deployments for training, short duration exercises, and other similar unit training events).

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CHAPTER 111—SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION

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§ 2198.[71] Management training program in Japanese language and culture

(a) The Secretary of Defense, in coordination with the National Science Foundation, shall establish a program for the making of grants on a competitive basis to United States institutions of higher education and other United States not-for-profit organizations for the conduct of programs for scientists, engineers, and managers to learn Japanese language and culture.

(b) The Secretary of Defense shall prescribe in regulations the criteria for awarding a grant under the program for activities of an

[71] Added by sec. 828(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1444).

institution or organization referred to in subsection (a), including the following:

(1) Whether scientists, engineers, and managers of defense laboratories and Department of Energy laboratories are permitted a level of participation in such activities that is beneficial to the development and application of defense critical technologies by such laboratories.

(2) Whether such activities include the placement of United States scientists, engineers, and managers in Japanese government and industry laboratories—

(A) to improve the knowledge of such scientists, engineers, and managers in (i) Japanese language and culture, and (ii) the research and development and management practices of such laboratories; and

(B) to provide opportunities for the encouragement of technology transfer from Japan to the United States.

(3) Whether an appropriate share of the costs of such activities will be paid out of funds derived from non-Federal Government sources.

(c) In this section, the term "defense critical technology" means a technology that is identified under section 2505 of this title as critical for attaining the national security objectives set forth in section 2501(a) of this title.[72]

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§ 2214.[73] Transfer of funds: procedure and limitations

(a) PROCEDURE FOR TRANSFER OF FUNDS.—Whenever authority is provided in an appropriation Act to transfer amounts in working capital funds or to transfer amounts provided in appropriation Acts for military functions of the Department of Defense (other than military construction) between such funds or appropriations (or any subdivision thereof), amounts transferred under such authority shall be merged with and be available for the same purposes and for the same time period as the fund or appropriations to which transferred.

(b) LIMITATIONS ON PROGRAMS FOR WHICH AUTHORITY MAY BE USED.—Such authority to transfer amounts—

(1) may not be used except to provide funds for a higher priority item, based on unforeseen military requirements, than the items for which the funds were originally appropriated; and

(2) may not be used if the item to which the funds would be transferred is an item for which Congress has denied funds.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the Congress of each transfer made under such authority to transfer amounts.

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[72] Sec. 1073(a)(39) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1902) struck out "identified in a defense critical technologies plan submitted to the Congress under section 2506 of this title." and inserted in lieu thereof "that is identified under section 2505 of this title as critical for attaining the national security objectives set forth in section 2501(a) of this title.".

Sec. 201(c)(3) of Public Law 103–35 (107 Stat. 98) previously made technical corrections to this subsec.

[73] Sec. 1482(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1709) added a sec. 2214, effective October 1, 1991.

(d) LIMITATIONS ON REQUESTS TO CONGRESS FOR REPROGRAMMINGS.—Neither the Secretary of Defense nor the Secretary of a military department may prepare or present to the Congress, or to any committee of either House of the Congress, a request with respect to a reprogramming of funds—

(1) unless the funds to be transferred are to be used for a higher priority item, based on unforeseen military requirements, than the item for which the funds were originally appropriated; or

(2) if the request would be for authority to reprogram amounts to an item for which the Congress has denied funds.

§ 2215.[74] Transfer of funds to other departments and agencies: limitation

(a)[75] CERTIFICATION REQUIRED.—Funds available for military functions of the Department of Defense may not be made available to any other department or agency of the Federal Government pursuant to a provision of law enacted after November 29, 1989, unless, not less than 30 days before such funds are made available to such other department or agency, the Secretary of Defense submits to the congressional committees specified in subsection (b)[76] a certification that making those funds available to such other department or agency is in the national security interest of the United States.

(b)[77] CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a) are—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

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CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS

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[74] Sec. 1502(a)(14)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) added subsec. (a) designation and catchline.

[75] Added by sec. 1106(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1750).

[76] Sec. 1502(a)(14)(B) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) struck out "to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives" and inserted in lieu thereof "to the congressional committees specified in subsection (b)".

[77] Sec. 1502(a)(14)(C) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) added subsec. (b).

§ 2249a.[78] Prohibition on providing financial assistance to terrorist countries

(a) PROHIBITION.—Funds available to the Department of Defense may not be obligated or expended to provide financial assistance to—

(1) any country with respect to which the Secretary of State has made a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)); [79]

(2) any country identified in the latest report submitted to Congress under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), as providing significant support for international terrorism; or

(3) any other country that, as determined by the President—

(A) grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or

(B) otherwise supports international terrorism.

(b) WAIVER.—(1) The President may waive the application of subsection (a) to a country if the President determines—

(A) that it is in the national security interests of the United States to do so; or

(B) that the waiver should be granted for humanitarian reasons.

(2) The President shall—

(A) notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives at least 15 days before the waiver takes effect; and

(B) publish a notice of the waiver in the Federal Register.

(c) DEFINITION.—In this section, the term "international terrorism" has the meaning given that term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)).

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 137—PROCUREMENT GENERALLY

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§ 2327.[80] Contracts: consideration of national security objectives

(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidi-

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[78] Added by sec. 1341(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 485).

[79] Sec. 1073(a)(40) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1902) struck out "50 App. 2405(j)" and inserted in lieu thereof "50 U.S.C. App. 2405(j)(1)(A)".

[80] Sec. 2327 was added by sec. 951 of Public Law 99–661 (100 Stat. 3816). See also sec. 843 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1720), requiring reports by defense contractors of dealings with terrorist countries.

ary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(b) PROHIBITION OF ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in case of a subsidiary, in the firm that owns the subsidiary); and

(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1797 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

(B) A report under subparagraph (A) shall include the following:

(i) The identify of the foreign government concerned.

(ii) The nature of the contract.

(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

(iv) The reasons for entering into the contract.

(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

(A) The relationship of the United States with the foreign government concerned.

(B) The obligations of the United States under international agreements.

(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

(d)[81] LIST OF FIRMS SUBJECT TO PROHIBITION.—(1) The Secretary of Defense shall develop and maintain a list of all firms and subsidiaries of firms that the Secretary has identified as being subject to the prohibition in subsection (b).

(2)(A) A person may request the Secretary to include on the list maintained under paragraph (1) any firm or subsidiary of a firm that the person believes to be owned or controlled by a foreign government described in subsection (b)(2). Upon receipt of such a request, the Secretary shall determine whether the conditions in paragraphs (1) and (2) of subsection (b) exist in the case of that firm or subsidiary. If the Secretary determines that such conditions do exist, the Secretary shall include the firm or subsidiary on the list.

(B) A firm or subsidiary of a firm included on the list may request the Secretary to remove such firm or subsidiary from the list on the basis that it has been erroneously included on the list or its ownership circumstances have significantly changed. Upon receipt of such a request, the Secretary shall determine whether the conditions in paragraphs (1) and (2) of subsection (b) exist in the case of that firm or subsidiary. If the Secretary determines that such conditions do not exist, the Secretary shall remove the firm or subsidiary from the list.

(C) The Secretary shall establish procedures to carry out this paragraph.

(3) The head of an agency shall prohibit each firm or subsidiary of a firm awarded a contract by the agency from entering into a subcontract under that contract in an amount in excess of $25,000 with a firm or subsidiary included on the list maintained under paragraph (1) unless there is a compelling reason to do so. In the case of any subcontract requiring consent by the head of an agency, the head of the agency shall not consent to the award of the subcontract to a firm or subsidiary included on such list unless there is a compelling reason for such approval.

(e)[81] DISTRIBUTION OF LIST.—The Administrator of General Services shall ensure that the list developed and maintained under subsection (d) is made available to Federal agencies and the public in the same manner and to the same extent as the list of suspended and debarred contractors compiled pursuant to subpart 9.4 of the Federal Acquisition Regulation.

(f)[81] APPLICABILITY.—(1) This section does not apply to a contract for an amount less than $100,000.

[81] Sec. 843 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1844) redesignated subsecs. (d) and (e) as subsecs. (f) and (g), and added new subsecs. (d) and (e).

(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

(g)[81] REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term "significant interest."

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CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS

§ 2341.[82] Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States[83]

Subject to section 2343[84] of this title and subject to the availability of appropriations, the Secretary of Defense may—

(1)[85] acquire from the Governments of North Atlantic Treaty Organization countries,[86] from North Atlantic Treaty Organization[87] subsidiary bodies, and from the United Nations Organization or any regional international organization of which the United States is a member[86] logistic support, supplies, and services for elements of the armed forces deployed outside the United States;[88] and

(2)[85] acquire from any government not a member of the North Atlantic Treaty Organization logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) outside the United States if that country—

(A) has a defense alliance with the United States;

(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country;

(C) has agreed to preposition materiel of the United States in such country; or

(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

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[82] Added as section 2321 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2341 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[83] Sec. 1104(a) of Public Law 99–661 (100 Stat. 3963) struck "United States armed forces in Europe" from the catchline, inserting in lieu thereof "elements of the armed forces deployed outside the United States".

[84] Sec. 1304(a)(4) of Public Law 99–145 (99 Stat. 741) struck "section 2323" and inserted in lieu thereof "section 2343". Reference changed to section 2341 when sec. 1104(a) of Public Law 99–661 (100 Stat. 3963) restated the text generally, designated it as para. (1), and added para. (2).

[85] Sec. 1104(a) of Public Law 99–661 (100 Stat. 3963) restated the text generally, designated it as para. (1), and added para. (2).

[86] Sec. 1317(a) of Public Law 103–337 (108 Stat. 2899) struck out "and" and inserted a comma after "countries"; and added ", and from the United Nations Organization or any regional international organization of which the United States is a member" after "subsidiary bodies".

[87] Sec. 1312(a)(2) of Public Law 102–484 (106 Stat. 2547) struck out "in which elements of the armed forces are deployed (or are to be deployed)" after "North Atlantic Treaty Organization".

[88] Sec. 1312(a)(2) of Public Law 102–484 (106 Stat. 2547) struck out "in such country or in the military region in which such country is located" and inserted in lieu thereof "outside the United States".

§ Sec. 2342.[89] Cross-servicing[90] agreements

(a)(1) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into an agreement described in paragraph (2) with any of the following:[91]

(A) The government of a North Atlantic Treaty Organization country.

(B) A subsidiary body of the North Atlantic Treaty Organization.

(C) The United Nations Organization or any regional international organization of which the United States is a member.

(D) The government of a country not a member of the North Atlantic Treaty Organization but which is designated by the Secretary of Defense, subject to the limitations prescribed in subsection (b), as a government with which the Secretary may enter into agreements under this section.

(2) An agreement referred to in paragraph (1) is an agreement under which the United States agrees to provide logistic support, supplies, and services to military forces of a country or organization[92] referred to in paragraph (1) in return for the reciprocal provisions of logistic support, supplies, and services by such government or organization[92] to elements of the armed forces.

(b) The Secretary of Defense may not designate a country for an agreement under this section unless—[93]

(1)[93] the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

(2) in the case of a country which is not a member of the North Atlantic Treaty Organization, the Secretary submits to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives notice of the intended designation[93] at least 30 days before the date on which such country is designated by the Secretary under subsection (a).

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[89] Added as section 2322 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2342 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). Sec. 1104(a) of Public Law 99–661 (100 Stat. 3963) amended and restated subsec. (a), designating para. (1), added paras. (2) and (3) of subsec. (a), and added subsecs. (b) through (d). Subsequently, sec. 1451(a) of Public Law 101–510 (104 Stat. 1692) further amended and restated subsec. (a) in two paragraphs.

[90] Sec. 1231(9) of Public Law 100–180 (101 Stat. 1160) struck out "Cross servicing" and inserted in lieu thereof "Cross-servicing" in the section catchline.

[91] Sec. 1317(b) of Public Law 103–337 (108 Stat. 2900) struck out "with—" and inserted in lieu thereof "with any of the following:"; substituted "The Government" for the government" and a period for a semicolon in subpara. (A); substituted "A subsidiary" for "a subsidiary", and "Organization" for "organization" in subpara. (B); added subpara. (C); redesignated former subpara. (C) as subpara. (D); and substituted "The government" for "the government" in subpara. (D).

[92] Sec. 1317(b)(2) of Public Law 103–337 (108 Stat. 2900) struck out "subsidiary body" and inserted in lieu thereof "organization".

[93] Sec. 1502(a)(16) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 504) struck out "section—" preceding para. (1), and inserted in lieu thereof "section unless—"; struck out "unless" at the beginning of para. (1); and in para. (2), struck out "notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives" and inserted in lieu thereof "the Secretary submits to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives notice of the intended designation".

(c) The Secretary of Defense may not use the authority of this subchapter[94] to procure from any foreign government or international organization[95] any goods or services reasonably available from United States commercial sources.

(d) The Secretary shall prescribe regulations to ensure that contracts entered into under this subchapter[94] are free from self-dealing, bribery, and conflict of interests.

§ Sec. 2343.[96] Waiver of applicability of certain laws

Sections 2207, 2304(a), 2306(a), 2306(b), 2306(e), 2306a, and 2313 of this title and[97] section 3741 of the Revised Statutes (41 U.S.C. 22)[97] shall not apply to acquisitions made under the authority of section 2341 of this title or to agreements entered into under section 2342 of this title.

§ Sec. 2344.[98] Methods of payment for acquisitions and transfers by the United States

(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this subchapter[99] on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an equal value.[99]

(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country or other foreign country[100] for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application:

(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies

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[94] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) struck out "this chapter" and inserted in lieu thereof "this subchapter".

[95] Sec. 1317(b)(3) of Public Law 103–337 (108 Stat. 2900) struck out "as a routine or normal source" and inserted in lieu thereof "organization".

[96] Added as section 2323 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2343 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). The section was substantially amended and restated by sec. 1317(c) of Public Law 103–337.

The list of sections in title 10 for which applicability has been waived has been amended several times by: secs. 961(b) and 1304(a)(5) of Public Law 99–145 (99 Stat. 703, 741); sec. 7(g)(2) of Public Law 100–26 (101 Stat. 282); and sec. 1233(d) of Public Law 100–456 (102 Stat. 1535).

[97] Sec. 1061(a)(12) of Public Law 102–190 (105 Stat. 1473) inserted "and" after "this title", and struck out "and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) before "shall not apply".

[98] Added as section 2324 by sec. 2(a) of Public Law 96–323 (94 Stat. 1017). Redesignated as sec. 2344 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[99] Secs. 931(e)(1) and 938(a) of Public Law 101–189 (103 Stat. 1535, 1539) substituted "this subchapter" for "this chapter", and "equal value" in lieu of "identical or substantially identical nature".

[100] Sec. 1104(b) of Public Law 99–661 (100 Stat. 3964) inserted "or other foreign country" after "country" in subsec. (b), paras. (1) and (3).

of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

(B) transfers by the United States to such country under this subchapter[101] of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country or other foreign country[100] are not waived by operation of the reciprocal pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies and the United Nations Organization or any regional international organization of which the United States is a member[102] under this subchapter.

(c)[103] In acquiring or transferring logistics support, supplies, or services under the authority of this subchapter[104] by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(3) Transfers of chemical munitions.

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[101] Originally enacted as "this Act". Amended to read "this chapter" by sec. 11(a)(8) of Public Law 97–22 (95 Stat. 138); further amended to read "this subchapter" by sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535).

[102] Sec. 1317(d) of Public Law 103–337 (108 Stat. 2900) inserted "and the United Nations Organization or any regional international organization of which the United States is a member".

[103] Sec. 938(b) of Public Law 101–189 (103 Stat. 1539) added subsec. (c).

[104] Sec. 701(f)(2) of Public Law 102–25 (105 Stat. 115) struck out "chapter" and inserted in lieu thereof "subchapter".

§ Sec. 2345.[105] Liquidation of accrued credits and liabilities

(a)[106] Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this subchapter[107] shall be liquidated not less often than once every 12 months[108] by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

(b)[106] Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this subchapter[107] shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.

§ Sec. 2346.[109] Crediting of receipts

Any receipt of the United States as a result of an agreement entered into under this subchapter[110] shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

§ Sec. 2347.[111] Limitation on amounts that may be obligated or accrued by the United States

(a)(1)[112] Except during a period of active hostilities involving the armed forces,[113] the total amount of reimbursable liabilities that the United States may accrue under this subchapter[114] (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization,[113] or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed $200,000,000[115] in any fiscal year, and of such amount not more than $50,000,000 in

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[105] Added as section 2325 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2345 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[106] Sec. 1104(c) of Public Law 99–661 (100 Stat. 3965) added subsec. designation "(a)" and added subsec. (b).

[107] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

[108] Sec. 1317(e) of Public Law 103–337 (108 Stat. 2900) struck out "three months" and inserted in lieu thereof "12 months".

[109] Added as section 2326 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2346 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). Sec. 1317(f) of Public Law 103–337 (108 Stat. 2900) substantially amended and restated this section.

[110] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

[111] Added as section 2327 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2347 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[112] Sec. 1104(d)(1) of Public Law 99–661 (100 Stat. 3965) added para. designation "(1)'", and added para. (2).

[113] Sec. 1312(b)(1) of Public Law 102–484 (106 Stat. 2547) struck out "North Atlantic Treaty Organization" and inserted in lieu thereof "armed forces"; and inserted "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after the parentheses. Sec. 1317(g)(1) of Public Law 103–337 (108 Stat. 2901) subsequently struck out "Organization and subsidiary" and inserted in lieu thereof "Organization, subsidiary", and added "or from the United Nations Organization or any regional international organization of which the United States is a member" after "Treaty Organization".

[114] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter" throughout the section.

[115] Sec. 1001 of Public Law 100–456 (102 Stat. 2037) struck out "$100,000,000" and inserted in lieu thereof "$150,000,000". Sec. 1317(g)(1) of Public Law 103–337 (108 Stat. 2901) raised this amount to $200,000,000.

liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants).

(2)[116] Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter[114] (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements, may not exceed $60,000,000[117] in any fiscal year, and of such amount not more than $20,000,000[118] in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants). The $60,000,000[117] limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(b)(1)[119] Except during a period of active hostilities involving the armed forces,[120] the total amount of reimbursable credits that the United States may accrue under this subchapter[114] (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization,[120] or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed $150,000,000[121] in any fiscal year.

(2) Except during a period of active hostilities involving the armed forces,[122] the total amount of reimbursable credits that the United States may accrue under this subchapter[114] (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements[123] may not exceed $75,000,000[124] in any fiscal year.

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[116] In para. (2), sec. 1312(b)(2) of Public Law 102–484 (106 Stat. 2547) substituted "involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with" in lieu of "in the military region affecting" and struck out "the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country" after "cross-servicing agreements,".

[117] Sec. 1317(g)(2) of Public Law 103–337 (108 Stat. 2901) struck out "$10,000,000" and inserted in lieu thereof "$60,000,000".

[118] Sec. 1317(g)(2) of Public Law 103–337 (108 Stat. 2901) substituted "$20,000,000" for "$2,500,000".

[119] Sec. 1104(d)(2) of Public Law 99–661 (100 Stat. 3965) added para. designation "(1)'", and added para. (2).

[120] Sec. 1312(b)(3) of Public Law 102–484 (106 Stat. 2547) struck out "North Atlantic Treaty Organization" and inserted in lieu thereof "armed forces"; and inserted "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after the parentheses. Sec. 1317(g)(3) of Public Law 103–337 (108 Stat. 2901) subsequently struck out "Organization and subsidiary" and inserted in lieu thereof "Organization, subsidiary", and added "or from the United Nations Organization or any regional international organization of which the United States is a member".

[121] Sec. 1317(g)(3) of Public Law 103–337 (108 Stat. 2901) struck out "$100,000,000" and inserted in lieu thereof "$150,000,000".

[122] Sec. 1312(b)(4)(A) of Public Law 102–484 (106 Stat. 2547) struck out "in the military region affecting a country referred to in paragraph (1)" and inserted in lieu thereof "involving the armed forces".

[123] Sec. 1312(b)(4)(B) of Public Law 102–484 (106 Stat. 2547) struck out "from such country (before computation of offsetting balances), and inserted in lieu thereof "(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements".

[124] Sec. 1317(g)(4) of Public Law 103–337 (108 Stat. 2901) struck out "$10,000,000" and inserted in lieu thereof "$75,000,000".

Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(c)[125] When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.

§ Sec. 2348.[126] Inventories of supplies not to be increased

Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this subchapter.[127]

§ 2349.[128] Overseas Workload Program

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense located outside the United States to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE OF PERFORMANCE.—A contract awarded to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the armed forces; or

(2) would violate the terms of an international agreement to which the United States is a party.

(d) DEFINITION.—In this section, the term "major non-NATO ally" has the meaning given that term in section 2350a(i)(3) of this title.

§ 2349a.[129] Annual report on non-NATO agreements

(a) REPORT.—The Secretary of Defense shall submit to Congress, not later than January 15 of each of 1996, 1997, 1998, 1999, and

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[125] Sec. 1317(g)(5) of Public Law 103–337 (108 Stat. 2901) added subsec. (c).

[126] Added as section 2328 by sec. 2(a) of Public Law 96–323 (94 Stat. 1018). Redesignated as sec. 2348 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[127] Originally enacted as "this Act". Amended to read "this chapter" by sec. 11(a)(8) of Public Law 97–22 (95 Stat. 138); further amended to read "this subchapter" by sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535).

Sec. 1104(e) of Public Law 99–661 (100 Stat. 3965) struck out "to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body" after "chapter".

Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

[128] Added by sec. 1431(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832).

[129] Added by sec. 1317(i)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902).

2000, a report covering non-NATO cross-servicing and acquisition actions in effect during the preceding fiscal year.

(b) MATTERS TO BE INCLUDED.—Each such report shall set forth in detail the following with respect to the preceding fiscal year:

(1) The total dollar amounts involved.

(2) A description of any services and equipment provided or received through those actions.

(3) A description of any equipment provided through those actions that is not returned.

(4) The volume of credits and liabilities accrued and liquidated.

(c) NON-NATO AGREEMENTS.—For purposes of this section, a non-NATO cross-servicing and acquisition agreement is a cross-servicing and acquisition agreement under this subchapter that involves countries or organizations other than North Atlantic Treaty Organization countries or subsidiary bodies.

§ Sec. 2350.[130] Definitions

In this subchapter:[131]

(1)[132] The term "logistic support, supplies, and services" means food, billeting, transportation (including airlift), petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, and port services. Such term includes temporary use of general purpose vehicles and other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated[133] pursuant to section 38(a)(1) of the Arms Export Control Act.

(2) The term "North Atlantic Treaty Organization subsidiary bodies" means—

(A) any organization within the meaning of the term "subsidiary bodies" in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North At-

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[130] Added as section 2331 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2350 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). Sec. 7(k)(2) of Public Law 100–26 (101 Stat. 284) made technical corrections throughout the section.

[131] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

[132] Sec. 1317(h)(1) of Public Law 103–337 (108 stat. 2901) inserted "(including airlift)" after "transportation", "calibration services," after "maintenance services,", and "Such term includes temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act." at end.

[133] Sec. 1222 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1937) struck out "other items of military equipment not designated as part of the United States Munitions List" and inserted in lieu thereof "other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated".

lantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.

(3)[134] The term "military region" means the geographical area of responsibility assigned to the commander of a unified combatant command (excluding Europe and adjacent waters).

(4)[135] The term "transfer" means selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, and services under the terms of a cross-servicing agreement.

SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

§ 2350a.[136] Cooperative research and development projects: allied countries

(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more major allies of the United States or NATO organizations[137] for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) The Secretary of Defense may not enter into a memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section unless the Secretary determines that the proposed project will improve, through the application of emerging technology, the conventional defense capabilities of the North Atlantic Treaty Organization (NATO) or the common conventional defense capabilities of the United States and its major non-NATO allies.

(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Technology.[138]

(c) COST SHARING.—Each cooperative research and development project entered into under this section shall require sharing of the costs of the project (including the costs of claims)[139] between the participants on an equitable basis.

(d) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of the major allies of the United States in cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

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[134] Sec. 1104(f) of Public Law 99–661 (100 Stat. 3965) added para. (3).

[135] Sec. 1317(h) of Public Law 103–337 (108 Stat. 2901) added para. (4).

[136] Sec. 2350a was added by sec. 931(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1531).

[137] Sec. 1301(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2888) inserted "or NATO organizations" after "major allies of the United States" in subsecs. (a), (e)(2), and (i)(1) of this section.

[138] Sec. 904(d)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1728) added "and Technology" to the Under Secretary's title.

[139] Sec. 843(b)(1) of Public Law 102–484 (106 Stat. 2469) inserted "(including the costs of claims)" after "project", with a stipulation for termination of the amendment. This stipulation was repealed by sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902).

(2) A major ally of the United States may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making that ally's contribution to a cooperative research and development program entered into with the United States under this section.

(e) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, the Under Secretary of Defense for Acquisition and Technology[138] shall prepare an arms cooperation opportunities document with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board.

(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a document known as a Mission Need Statement is prepared.

(2) An arms cooperation opportunities document referred to in paragraph (1) shall include the following:

(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by one or more of the major allies of the United States or NATO organizations.[137]

(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more major allies of the United States or NATO organizations,[137] an assessment by the Under Secretary of Defense for Acquisition and Technology[138] as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more major allies of the United States or NATO organizations.[137]

(D) The recommendation of the Under Secretary as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more major allies of the United States or NATO organizations.[137]

(f) REPORTS TO CONGRESS.—(1) Not later than March 1 of each year, the Under Secretary of Defense for Acquisition and Technology[138] shall submit to the Speaker of the House of Representatives and the Committees on Armed Services and Appropriations of the Senate a report on cooperative research and development projects under this section. Each such report shall include—

(A) a description of the status, funding, and schedule of existing projects carried out under this section for which memoranda of understanding (or other formal agreements) have been entered into; and

(B) a description of the purpose, funding, and schedule of any new projects proposed to be carried out under this section

(including those projects for which memoranda of understanding (or other formal agreements) have not yet been entered into) for which funds have been included in the budget submitted to Congress pursuant to section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

(2) The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives[140] a report—

(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.

(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

(A) that the Secretary of Defense should test conventional defense equipment, munitions, and technologies manufactured and developed by major allies of the United States and other friendly foreign countries[141] to determine the ability of such equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

(B) that while the testing of nondevelopmental items and items in the late state of the development process are preferred, the testing of equipment, munitions, and technologies may be conducted to determine procurement alternatives.

(2) The Secretary of Defense may acquire equipment, munitions, and technologies of the type described in paragraph (1) for the purpose of conducting the testing described in that paragraph.

(3) The Deputy Director, Defense Research and Engineering (Test and Evaluation) shall notify the Speaker of the House of Representatives and the Committees on Armed Services and on Appropriations of the Senate of the Deputy Director's intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

(4)[142] The Secretary of Defense shall submit to Congress each year, not later than March 1, a report containing information on—

(A) the equipment, munitions, and technologies manufactured and developed by major allies of the United States and other friendly foreign countries[141] that were evaluated under this subsection during the previous fiscal year;

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[140] Sec. 1502(a)(17) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 504) struck out "submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives" and inserted in lieu thereof "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives".

[141] Sec. 1053 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1471) inserted "and other friendly foreign countries" after "major allies of the United States" in pars. (1)(A) and (4)(A).

[142] Sec. 1331(4) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1673) amended and restated par. (4).

(B) the obligation of any funds under this subsection during the previous fiscal year; and

(C) the equipment, munitions, and technologies that were tested under this subsection and procured during the previous fiscal year.

(h) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage major allies of the United States to establish programs similar to the one provided for in this section.

(i) DEFINITIONS.—In this section:

(1) The term "cooperative research and development project" means a project involving joint participation by the United States and one or more major allies of the United States or NATO organizations[137] under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional defense equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

(2) The term "major ally of the United States" means—

(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or

(B) a major non-NATO ally.

(3) The term "major non-NATO ally" means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(4)[143] The term "NATO organization" means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.

§ 2350b.[144] Cooperative projects under Arms Export Control Act: acquisition of defense equipment

(a)(1) If the President delegates to the Secretary of Defense the authority to carry out section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)), relating to cooperative projects (as defined in such section), the Secretary may utilize his authority under this title in carrying out contracts or obligations incurred under such section.

(2) Except as provided in subsection (c), chapter 137 of this title shall apply to such contracts (referred to in paragraph (1)) entered into by the Secretary of Defense. Except to the extent waived under subsection (c) or some other provision of law, all other provisions

[143] Sec. 1301(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2888) added para. (4).

[144] Sec. 2350b was added as 2407 by sec. 1102(b) of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 710), with the title of "Acquisition of defense equipment under cooperative projects". It was subsequently redesignated as sec. 2350b and retitled by sec. 931(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1534). References to "NATO" cooperative projects were removed by sec. 1103 of Public Law 99–661 (100 Stat. 3816).

of law relating to procurement, if otherwise applicable, shall apply to such contracts entered into by the Secretary of Defense.

(b) When contracting or incurring obligations under section 27(d) of the Arms Export Control Act for cooperative projects, the Secretary of Defense may require subcontracts to be awarded to particular subcontractors in furtherance of the cooperative project.

(c)(1) Subject to paragraph (2), when entering into contracts or incurring obligations under section 27(d) of the Arms Export Control Act outside the United States, the Secretary of Defense may waive with respect to any such contract or subcontract the application of any provision of law, other than a provision of the Arms Export Control Act or section 2304 of this title, that specifically prescribes—[145]

(A) procedures to be followed in the formation of contracts;

(B) terms and conditions to be included in contracts;

(C) requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or

(D) requirements regulating the performance of contracts.

(2) A waiver may not be made under paragraph (1) unless the Secretary determines that the waiver is necessary to ensure that the cooperative project will significantly further standardization, rationalization, and interoperability.

(3) The authority of the Secretary to make waivers under this subsection may be delegated only to the Deputy Secretary of Defense or the Acquisition Executive designated for the Office of the Secretary of Defense.

(d)(1) The Secretary of Defense shall notify the Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract be [146] awarded to a particular subcontractor to comply with a cooperative agreement. The Secretary shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

(2) The Secretary shall also notify the Congress each time he exercises a waiver under subsection (c) and shall include in such notice the particular provision or provisions of law that were waived.

(3) A report under this subsection shall be required only to the extent that the information required by this subsection has not been provided in a report made by the President under section 27(e) of the Arms Export Control Act (22 U.S.C. 2767(e)).

(e)(1) In carrying out a cooperative project under section 27 of the Arms Export Control Act, the Secretary of Defense may agree that a participant (other than the United States) or a NATO organization [147] may make a contract for requirements of the United States

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[145] Sec. 4321(b)(10)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 672) struck out "specifically—" and inserted in lieu thereof "specifically prescribes—", and struck out "prescribe" at the beginning of each of subpara. (A) through (D).

[146] Sec. 4321(b)(10)(B) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 672) struck out "subcontract to be" and inserted in lieu thereof "subcontract be".

[147] Sec. 1335(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 484) inserted "or a NATO organization" after "(other than the United States)".

under the project if the Secretary determines that such a contract will significantly further standardization, rationalization, and interoperability. Except to the extent waived under this section or under any other provision of law, the Secretary shall ensure that such contract will be made on a competitive basis and that United States sources will not be precluded from competing under the contract.

(2) If a participant (other than the United States) in a cooperative project makes a contract on behalf of such project to meet the requirements of the United States, the contract may permit the contracting party to follow its own procedures relating to contracting.

(f) In carrying out such a cooperative project or a NATO organization,[148] the Secretary of Defense may also agree to the disposal of property that is jointly acquired by the members of the project without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement.

(g) Nothing in this section shall be construed as authorizing—

(1) the Secretary of Defense to waive any of the financial management responsibilities administered by the Secretary of the Treasury; or

(2) to waive the cargo preference laws of the United States, including the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)).

§ 2350c.[149] Cooperative military airlift agreements: allied countries

(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as deter-

[148] Sec. 1335(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 484) struck out "a cooperative project" and inserted in lieu thereof "such a cooperative project or a NATO organization".

[149] Sec. 2350c was enacted as sec. 2213 by sec. 1125(a) of the DOD Authorization Act, 1983 (Public Law 97–252; 96 Stat. 757), with the title of "Cooperative military airlift agreements"; and redesignated as sec. 2350c and retitled by sec. 931(b)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1534).

mined by the Secretary of Defense under section 2208(h) of this title.

(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated[150] as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.

(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

(d) Notwithstanding subchapter I,[151] the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.

(e) In this section:

(1) The term "allied country" means any of the following:

(A) A country that is a member of the North Atlantic Treaty Organization.

(B) Australia, New Zealand, Japan, and the Republic of Korea.[152]

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[150] Sec. 1311(a) of Public Law 102–484 (106 Stat. 2547) struck out "not less often than once every 3 months by direct payment to the country that has provided the greater amount of transportation." following "liquidation", and text beginning with "as agreed upon" was inserted in its place.

[151] Sec. 931(b)(2) of Public Law 101–189 (103 Stat. 1534) struck out "chapter 138 of this title" at this point and inserted "subchapter I".

[152] Sec. 1311(b) of Public Law 102–484 (106 Stat. 2547) struck out "or New Zealand", and inserted in lieu thereof ", New Zealand, Japan, and the Republic of Korea".

(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "North Atlantic Treaty Organization subsidiary bodies" has the meaning given to it by section 2331 of this title.

§ 2350d.[153] Cooperative logistic support agreements: NATO countries

(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may enter into bilateral or multilateral agreements known as Weapon System Partnership Agreements with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) participating in the operation of the NATO Maintenance and Supply Organization. Any such agreement shall be for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreement. Any such agreement—

(A) shall be entered into pursuant to the terms of the charter of the NATO Maintenance and Supply Organization; and

(B) shall provide for the common logistic support of a specific weapon system common to the participating countries.

(2) Such an agreement may provide for—

(A) the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization; and

(B) the acquisition of logistics support, supplies, and services by the United States from that Organization.

(b) AUTHORITY OF SECRETARY.—Under the terms of a Weapon System Partnership Agreement, the Secretary of Defense—

(1) may agree that the NATO Maintenance and Supply Organization may enter into contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

(2) may share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs and costs of claims[154] incident to the agreement.

(d) APPLICATION OF CHAPTER 137.—Except as otherwise provided in this section, the provisions of chapter 137 of this title apply to

[153] Sec. 931(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1534) added sec. 2350d.

[154] Sec. 843(b)(2) of Public Law 102–484 (106 Stat. 2469) inserted "and costs of claims" after administrative costs", with a stipulation for termination of the amendment. This stipulation was repealed by sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902).

a contract entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—Any transfer of defense articles or defense services to a member country of the North Atlantic Treaty Organization or to the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance this chapter and[155] with the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under subchapter I and any other provision of law.

§ 2350e.[156] NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense

(a) AUTHORITY UNDER AWACS PROGRAM.—The Secretary of Defense, in carrying out an AWACS memorandum of understanding, may do the following:

(1) Waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) Auditing.

(B) Quality assurance.

(C) Codification.

(D) Inspection.

(E) Contract administration.

(F) Acceptance testing.

(G) Certification services.

(H) Planning, programming, and management services.

(2) Waive any surcharge for administrative services otherwise chargeable.

(3) In connection with that Program, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) CONTRACT AUTHORITY LIMITATION.—Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

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[155] Sec. 938(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1539), added "this chapter and".

[156] Sec. 932(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1536) added sec. 2350e. Sec. 2350e(d), which provided for the expiration of this authority, was struck out by sec. 1413 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829). Originally intended to expire on September 30, 1991, that date had been amended to extend the authority until September 30, 1993, by sec. 1051(2) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1470).

(c) DEFINITION.—In this section, the term "AWACS memorandum of understanding" means—

(1) the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E–3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978;

(2) the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984;[157]

(3)[157] the Addendum to the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defense on the NATO E–3A Cooperative Programme (dated December 6, 1978) relating to the modernization of the NATO Airborne Early Warning and Control (NAEW&C) System, dated December 7, 1990; and

(4)[157] any other follow-on support agreement for the NATO E–3A Cooperative Programme.

§ 2350f.[158] Procurement of communications support and related supplies and services

(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations,[159] under which, in return for being provided communications support and related supplies and services, the United States would agree to provide to the allied country or countries or allied international organization or allied international organizations, as the case may be,[160] an equivalent value of communications support and related supplies and services. The term of an arrangement entered into under this subsection may not exceed five years.[161]

(b)(1)[162] Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater

[157] Sec. 1051(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1470) struck out "and" at the end of par. (2); redesignated par. (3) as (4); inserted a new par. (3).

[158] Sec. 2350f was enacted as sec. 2401a by sec. 1005 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2492 at 2578); and redesignated as sec. 2350f by sec. 933(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537).

[159] Sec. 933(b)(1) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537) inserted text to this point beginning with "a bilateral arrangement", and struck out "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)".

[160] Sec. 933(b)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537), struck out "such country or NATO" and inserted in lieu thereof text to this point beginning with "the allied country or countries or".

[161] Sec. 933(b)(3) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537), added this last sentence.

[162] Sec. 933(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537), added paragraph designation (1); added par. (2); designated the last sentence of par. (1) as par. (3); and added the last sentence to par. (1).

amount of communications support and related supplies and services. Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into; and [162]

(2) [162] Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.

(3) [162] Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

(c) The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [163] copies of all documents evidencing an arrangement entered into under subsection (a) not later than 45 days after entering into such an arrangement.

(d) [164] In this section:

(1) The term "allied country" means—

(A) a country that is a member of the North Atlantic Treaty Organization; [165]

(B) Australia, New Zealand, Japan, or the Republic of Korea; or

(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "allied international organization" means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

§ 2350g.[166] Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements

(a) AUTHORITY TO ACCEPT.—The Secretary of Defense may accept from a foreign country, for the support of any element of the armed forces in an area of that country—

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[163] Sec. 1502(a)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 502) struck out "Committees on Armed Services of the Senate and the House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

[164] Sec. 933(d) of Public Law 101–189 struck "In this section, the term 'allied country' means—" from (d), inserted in lieu thereof "In this section:"; redesignated clauses (1) and (2) as (A) and (B), respectively; made technical corrections to clauses redesignated as (A) and (B); and added a new clause (C) and par. (2).

[165] Sec. 1484(k)(8) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1719) struck out ", or" here and inserted a semicolon.

[166] Sec. 1451(b)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1693) added sec. 2350g.

(1) real property or the use of real property and services and supplies for the United States or for the use of the United States in accordance with a mutual defense agreement or occupational arrangement; and

(2) services furnished as reciprocal international courtesies or as services customarily made available without charge.

(b) QUARTERLY REPORTS.—(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on property, services, and supplies accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property, services, and supplies having a value of more than $1,000,000.

(2) In computing the value of any property, services, and supplies referred to in paragraph (1), the Secretary shall aggregate the value of—

(A) similar items of property, services, and supplies accepted by the Secretary during the quarter concerned; and

(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

(c) AUTHORITY TO USE PROPERTY, SERVICES, AND SUPPLIES.—Property, services, or supplies referred to in subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property, services, and supplies may not be used in connection with any program, project, or activity if the use of such property, services, or supplies would result in the violation of any prohibition or limitation otherwise applicable to that program, project, or activity.

(d)[167] PERIODIC AUDITS BY GAO.—The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

§ 2350h.[168] Memorandums of agreement: Department of Defense ombudsman for foreign signatories

The Secretary of Defense shall designate an official to act as ombudsman within the Department of Defense on behalf of foreign governments who are parties to memorandums of agreement with the United States concerning acquisition matters under the jurisdiction of the Secretary of Defense. The official so designated shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.

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[167] Sec. 1105(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1749) amended and restated subsec. (d).

[168] Sec. 1452(a)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1694) added sec. 2350h. Sec. 1452(b) of that Act also provided that: "The official required to be designated under section 2350(h) of title 10, United States Code, as added by subsection (a), shall be designated by the Secretary of Defense not later than 90 days after the date of the enactment of this Act.".

§ 2350i.[169] Foreign contributions for cooperative projects

(a) CREDITING OF CONTRIBUTIONS.—Whenever the United States participates in a cooperative project with a friendly foreign country or the North Atlantic Treaty Organization (NATO) on a cost-sharing basis, any contribution received by the United States from that foreign country or NATO to meet its share of the costs of the project may be credited to appropriations available to an appropriate military department or another appropriate organization within the Department of Defense, as determined by the Secretary of Defense.

(b) USE OF AMOUNTS CREDITED.—The amount of a contribution credited pursuant to subsection (a) to an appropriation account in connection with a cooperative project referred to in that subsection shall be available only for payment of the share of the project expenses allocated to the foreign country or NATO making the contribution. Payments for which such amount is available include the following:

(1) Payments to contractors and other suppliers (including the Department of Defense and other participants acting as suppliers) for necessary articles and services.

(2) Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation.

(3) Payments or reimbursements of other program expenses, including program office overhead and administrative costs.

(4) Refunds to other participants.

(c) DEFINITIONS.—In this section:

(1) The term "cooperative project" means a jointly managed arrangement, described in a written cooperative agreement entered into by the participants, that—

(A) is undertaken by the participants in order to improve the conventional defense capabilities of the participants; and

(B) provides for—

(i) one or more participants (other than the United States) to share with the United States the cost of research and development, testing, evaluation, or joint production (including follow-on support) of defense articles;

(ii) the United States and another participant concurrently to produce in the United States and the country of such other participant a defense article jointly developed in a cooperative project described in clause (i); or

(iii) the United States to procure a defense article or a defense service from another participant in the cooperative project.

(2) The term "defense article" has the meaning given such term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

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[169] Sec. 1047(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1467) added sec. 2350i.

(3) The term "defense service" has the meaning given such term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794(4)).

§ 2350j.[170] Burden sharing contributions by designated countries and regional organizations

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State,[171] for the purposes specified in subsection (c).

(b)[172] ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).

(c) AVAILABILITY OF CONTRIBUTIONS.—Contributions accepted under subsection (a) shall be available only for the payment of the following costs:

(1) Compensation for local national employees of the Department of Defense.

(2) Military construction projects of the Department of Defense.

(3) Supplies and services of the Department of Defense.

(d) AUTHORIZATION OF MILITARY CONSTRUCTION.—Contributions placed in an account established under subsection (b)[173] may be used—

(1) by the Secretary of Defense to carry out a military construction project that is consistent with the purposes for which the contributions were made and is not otherwise authorized by law; or

(2) by the Secretary of a military department, with the approval of the Secretary of Defense, to carry out such a project.

(e) NOTICE AND WAIT REQUIREMENTS.—(1) When a decision is made to carry out a military construction project under subsection

[170] Sec. 1402(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1826) added this section heading, and incorporated as text of a new section 2350j, the language enacted as sec. 1045 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 101–190), as amended, and further amended by sec. 1402(b) of Public Law 103–160.

[171] Sec. 1402(a)(2)(A)(iv) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1826) inserted "from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State". Sec. 1070(a)(10)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2856) inserted a comma after "Secretary of State" at this point.

[172] Sec. 1331(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) amended and restated subsec. (b).

[173] Sec. 1331(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) struck out "credited under subsection (b) to an appropriation account of the Department of Defense" and inserted in lieu thereof "placed in an account established under subsection (b)".

(d), the Secretary of Defense shall submit to the congressional committees specified in subsection (g) a report[174] containing—

(A) an explanation of the need for the project;

(B) the then current estimate of the cost of the project; and

(C) a justification for carrying out the project under that subsection.

(2) The Secretary of Defense or the Secretary of a military department may not commence a military construction project under subsection (d) until the end of the 21–day period beginning on the date on which the Secretary of Defense submits the report under paragraph (1) regarding the project.

(f) REPORTS.—Not later than 30 days after the end of each fiscal year, the Secretary of Defense shall submit to[175] Congress a report specifying separately for each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)—

(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.

(g)[176] CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (e)(1) are—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

§ 2350k.[177] Relocation within host nation of elements of armed forces overseas

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

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[174] Sec. 1331(c)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) struck out "a report to the congressional defense committees" and inserted in lieu thereof "to the congressional committees specified in subsection (g) a report"

[175] Sec. 1070(a)(10)(B) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2888) struck out "the" at this point.

[176] Sec. 1332(c)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) added subsec. (g).

[177] Sec. 1332(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) added a new sec. 2350k.

(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

(6) All other clearly identifiable expenses directly related to relocation.

(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

(d) ANNUAL REPORT TO CONGRESS.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report specifying—

(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.

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CHAPTER 139—RESEARCH AND DEVELOPMENT

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§ 2370. * * * [Repealed—1996] [178]

§ 2370a. [179] **Medical countermeasures against biowarfare threats: allocation of funding between near-term and other threats**

(a) ALLOCATION BETWEEN NEAR-TERM AND OTHER THREATS.—Of the funds appropriated or otherwise made available for any fiscal year for the medical component of the Biological Defense Research Program (BDRP) of the Department of Defense —

(1) not more than 80 percent may be obligated and expended for product development, or for research, development, test, or evaluation, of medical countermeasures against near-term validated biowarfare threat agents; and

(2) not more than 20 percent may be obligated or expended for product development, or for research, development, test, or evaluation, of medical countermeasures against mid-term or far-term validated biowarfare threat agents.

(b) DEFINITIONS.—In this section:

(1) The term "validated biowarfare threat agent" means a biological agent that—

(A) is named in the biological warfare threat list published by the Defense Intelligence Agency; and

(B) is identified as a biowarfare threat by the Deputy Chief of Staff of the Army for Intelligence in accordance with Army regulations applicable to intelligence support for the medical component of the Biological Defense Research Program.

(2) The term "near-term validated biowarfare threat agent" means a validated biowarfare threat agent that has been, or is being, developed or produced for weaponization within 5 years, as assessed and determined by the Defense Intelligence Agency.

(3) The term "mid-term validated biowarfare threat agent" means a validated biowarfare threat agent that is an emerging biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 5 years and less than 10 years, as assessed and determined by the Defense Intelligence Agency.

(4) The term "far-term validated biowarfare threat agent" means a validated biowarfare threat agent that is a future biowarfare threat, is the object of research by a foreign threat country, and could be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined by the Defense Intelligence Agency.

(5) The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

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[178] Sec. 2370, which had required the Secretary of Defense to report annually on biological defense research, was repealed by sec. 1061(j)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 442). The section had been enacted by sec. 241(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1516).

[179] Added by sec. 214(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1586).

CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

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§ 2390.[180] Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

(2) In this section, the term "decrement stock" means such stock as is needed to bring the armed forces from a peace time level of readiness to a combat level of readiness.

(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.

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§ 2410i.[181] Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel

(a) POLICY.—Under section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b) PROHIBITION.—(1) Consistent with the policy referred to in subsection (a), the Department of Defense may not award a contract for an amount in excess of the small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))) to a foreign entity unless that entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) In paragraph (1), the term "foreign entity" means a foreign person, a foreign company, or any other foreign entity.

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[180] Sec. 2390 was enacted as sec. 975 by sec. 815(a) of the DOD Authorization Act, 1979 (Public Law 95–485; 96 Stat. 1625); and redesignated as sec. 2390 by sec. 1622(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1604).

[181] Added by sec. 1332(a) of Public Law 102–484 (106 Stat. 2555).

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the prohibition in subsection (b) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each fiscal year, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this subsection during that fiscal year.

(d) EXCEPTIONS.—Subsection (b) does not apply—

(1) to contracts for consumable supplies, provisions, or services that are intended to be used for the support of United States forces or of allied forces in a foreign country; or

(2) to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes by the United States Government in the interests of national security or to the acquisition or lease of any such equipment, technology, data, or services by the United States Government in the interests of national security.

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CHAPTER 145—CATALOGING AND STANDARDIZATION

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§ 2457.[182] Standardization of equipment with North Atlantic Treaty Organization members

(a) It is the policy of the United States to standardize equipment, including weapons systems, ammunition, and fuel, procured for the use of the armed forces of the United States stationed in Europe under the North Atlantic Treaty or at least to make that equipment interoperable with equipment of other members of the North Atlantic Treaty Organization. To carry out this policy, the Secretary of Defense shall—

(1) assess the costs and possible loss of nonnuclear combat effectiveness of the military forces of the members of the Organization caused by the failure of the members to standardize equipment;

(2) maintain a list of actions to be taken, including an evaluation of the priority and effect of the action, to standardize equipment that may improve the overall nonnuclear defense capability of the Organization or save resources for the Organization; and

(3) initiate and carry out, to the maximum extent feasible, procurement procedures to acquire standardized or interoperable equipment, considering the cost, function, quality, and availability of the equipment.

(b) Progress in realizing the objectives of standardization and interoperability would be enhanced by expanded inter-Allied pro-

[182] Public Law 97–295 consolidated a number of provisions enacted in previous years concerning NATO standardization issues, made technical and conforming amendments, and codified the new language at 10 U.S.C. 2457. Portions of this text originated in the following acts: sec. 302(c) of the DOD Authorization Act, 1975 (Public Law 93–365; 88 Stat. 399); sec. 814 of the DOD Authorization Act, 1976 (Public Law 94–106; 89 Stat. 531); sec. 803 of the DOD Authorization Act, 1977 (Public Law 94–361; 90 Stat. 923); and sec. 1121 of the DOD Authorization Act, 1983 (Public Law 97–252; 96 Stat. 754). Public Law 97–295 repealed the above mentioned provisions relating to NATO standardization.

curement of arms and equipment within the North Atlantic Treaty Organization. Expanded inter-Allied procurement would be made easier by greater reliance on licensing and coproduction cooperative agreements among the signatories of the North Atlantic Treaty. If constructed to preserve the efficiencies associated with economies of scale, the agreements could minimize potential economic hardship to parties to the agreements and increase the survivability, in time of war, of the North Atlantic Alliance's armaments production base by dispersing manufacturing facilities. In conjunction with other members of the Organization and to the maximum extent feasible, the Secretary shall—

(1) identify areas in which those cooperative agreements may be made with members of the Alliance; and

(2) negotiate those agreements.

(c)(1) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater should conform to a common Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment, and that a common Organization requirement should be understood to include a common definition of the military threat to the members of the Organization.

(2) It is further the sense of Congress that standardization of weapons and equipment within the Organization on the basis of a "two-way street" concept of cooperation in defense procurement between Europe and North America can only work in a realistic sense if the European nations operate on a united and collective basis. Therefore, the governments of Europe are encouraged to accelerate their present efforts to achieve European armaments collaboration among all European members of the Organization.

(d)[183] Before February 1, 1989, and biennially thereafter, the Secretary shall submit a report to Congress that includes—

(1) Each specific assessment and evaluation made and the results of each assessment and evaluation, and the results achieved with the members of the North Atlantic Treaty Organization, under subsections (a)(1) and (2) and (b);

(2) procurement action initiated on each new major system not complying with the policy of subsection (a);

(3) procurement action initiated on each new major system that is not standardized or interoperable with equipment of other members of the Organization, including a description of the system chosen and the reason for choosing that system;

(4) the identity of—

(A) each program of research and development for the armed forces of the United States stationed in Europe that supports, conforms, or both, to common Organization requirements of developing weapon systems for use by the Organization, including a common definition of the military threat to the Organization; and

(B) the common requirements of the Organization to which those programs conform or which they support;

[183] Sec. 1311(5) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1670) struck out "Before February 1 of each year," and inserted in lieu thereof "Before February 1, 1989, and biennially thereafter,".

(5) action of the Alliance toward common Organization requirements if none exist;

(6) efforts to establish a regular procedure and mechanism in the Organization to determine common military requirements;

(7) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the Organization other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted, including a summary listing of the amount of funds—

(A) appropriated for those programs for the fiscal year in which the report is submitted; and

(B) requested, or proposed to be requested, for those programs for each of the 2 fiscal years following the fiscal year for which the report is submitted; and

(8) a description of each weapon system or other military equipment originally developed or procured in the United States and that is being developed or procured by members of the Organization other than the United States during the fiscal year for which the report is submitted.

(e) If the Secretary decides that procurement of equipment manufactured outside the United States is necessary to carry out the policy of subsection (a), the Secretary may determine under section 2 of the Buy American Act (41 U.S.C. 10a)[184] that acquiring that equipment manufactured in the United States is inconsistent with the public interest.

(f) The Secretary shall submit the results of each assessment and evaluation made under subsection (a)(1) and (2) to the appropriate North Atlantic Treaty Organization Body to become an integral part of the overall Organization review of force goals and development of force plans.

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CHAPTER 148—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE INVESTMENT, AND DEFENSE CONVERSION

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SUBCHAPTER III—PROGRAMS FOR DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

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[184] Sec. 1503(a)(24) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 512) struck out "title III of the Act of March 3, 1933 (41 U.S.C. 10a)," and inserted in lieu thereof "the Buy American Act (41 U.S.C. 10a)".

§ 2517.[185] Office for Foreign Defense Critical Technology Monitoring and Assessment

(a) IN GENERAL.—The Secretary of Defense shall establish within the Office of the Director of Defense Research and Engineering an office known as the "Office for Foreign Defense Critical[185] Technology Monitoring and Assessment" (hereinafter in this section referred to as the "Office").

(b) RELATIONSHIP TO DEPARTMENT OF COMMERCE.—The head of the Office shall consult closely with appropriate officials of the Department of Commerce in order—

(1) to minimize the duplication of any effort of the Department of Commerce by the Department of Defense regarding the monitoring of foreign activities related to defense critical technologies that have potential commercial uses; and

(2) to ensure that the Office is effectively utilized to disseminate information to users of such information within the Federal Government.

(c) RESPONSIBILITIES.—The Office shall have the following responsibilities:

(1) To maintain within the Department of Defense a central library for the compilation and appropriate dissemination of unclassified and classified information and assessments regarding significant foreign activities in research, development, and applications of defense critical technologies.

(2) To establish and maintain—

(A) a widely accessible unclassified data base of information and assessments regarding foreign science and technology activities that involve defense critical technologies, including, especially, activities in Europe and in Pacific Rim countries; and

(B) a classified data base of information and assessments regarding such activities.

(3) To perform liaison activities among the military departments, Defense Agencies, and other appropriate elements of the Department of Defense, with appropriate agencies and offices of the Department of Commerce and the Department of State, and with other departments and agencies of the Federal Government in order to ensure that significant activities in research, development, and applications of defense critical technologies are identified, monitored, and assessed by an appropriate department or agency of the Federal Government.

(4) To ensure the maximum practicable public availability of information and assessments contained in the unclassified data bases established pursuant to paragraph (2)—

(A) by limiting, to the maximum practicable extent, restrictive classification of such information and assessments; and

(B) by disseminating to the National Technical Information Service of the Department of Commerce information

[185] Sec. 821(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1426) added this section as sec. 2525. Sec. 4227 of Public Law 102–484 (106 Stat. 2685) redesignated as sec. 2517, and inserted "Critical" after "Foreign Defense" in subsec. (a).

and assessments regarding defense critical technologies having potential commercial uses.

(5) To disseminate through the National Technical Information Service of the Department of Commerce unclassified information and assessments regarding defense critical technologies having potential commercial uses so that such information and assessments may be further disseminated within the Federal Government and to the private sector.

§ 2518.[186] Overseas foreign critical technology monitoring and assessment financial assistance program

(a) ESTABLISHMENT AND PURPOSE OF PROGRAM.—The Secretary of Defense may establish a foreign critical technology monitoring and assessment program. Under the program, the Secretary may enter into cooperative arrangements with one or more eligible not-for-profit organizations in order to provide financial assistance for the establishment of foreign critical technology monitoring and assessment offices in Europe, Pacific Rim countries, and such other countries as the Secretary considers appropriate.

(b) ELIGIBLE ORGANIZATIONS.—Any not-for-profit industrial or professional organization that has economic and scientific interests in research, development, and applications of dual-use critical technologies is eligible to enter into a cooperative arrangement referred to in subsection (a).

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SUBCHAPTER V—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

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§ 2531.[187] Defense memoranda of understanding and related agreements

(a) CONSIDERATIONS IN MAKING AND IMPLEMENTING MOUS AND RELATED AGREEMENTS.—In the negotiation, renegotiation, and implementation of any existing or proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, or to the reciprocal procurement of defense items,[188] the Secretary of Defense shall—

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[186] Originally added as sec. 2526 by sec. 821(a) of Public Law 102–190 (105 Stat. 1426); redesignated as sec. 2518 by Public Law 102–484 (106 Stat. 2685).

[187] Sec. 824 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2019) added this section as sec. 2504. It was substantially amended by sec. 815 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1500).

Sec. 4202(a) of Public Law 102–484 (106 Stat. 2659) redesignated this section as sec. 2531, and added a new chapter 148 to 10 U.S.C., relating to defense technology and industrial base, reinvestment, and conversion.

[188] Sec. 1453 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1694) inserted "or to the reciprocal procurement of defense items,".

(1) consider the effects of such existing or proposed memorandum of understanding or related agreement on the defense industrial base of the United States; and

(2) regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential effects of such memorandum of understanding or related agreement on the international competitive position of United States industry.

(b) INTER-AGENCY REVIEW OF EFFECTS ON UNITED STATES INDUSTRY.—Whenever the Secretary of Commerce has reason to believe that an existing or proposed memorandum of understanding or related agreement has, or threatens to have, a significant adverse effect on the international competitive position of United States industry, the Secretary may request an inter-agency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the commercial interests of the United States are not being served or would not be served by adhering to the terms of such existing memorandum or related agreement or agreeing to such proposed memorandum or related agreement, as the case may be, the Secretary shall recommend to the President the renegotiation of the existing memorandum or related agreement or any modification to the proposed memorandum of understanding or related agreement that he considers necessary to ensure an appropriate balance of interests.

(c) LIMITATION ON ENTERING INTO MOUS AND RELATED AGREEMENTS.—A memorandum of understanding or related agreement referred to in subsection (a) may not be entered into or implemented if the President, taking into consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement.

§ 2532.[189] Offset policy; notification

(a) ESTABLISHMENT OF OFFSET POLICY.—The President shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements in connection with the purchase of defense equipment or supplies which addresses the following:

(1) Transfer of technology in connection with offset arrangements.

(2) Application of offset arrangements, including cases in which United States funds are used to finance the purchase by a foreign government.

(3) Effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

[189] Sec. 825(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2020), added this section as sec. 2505. Sec. 4202 of Public law 102–484 (106 Stat. 2659) redesignated this section as 2532, and added a new chapter 148 to 10 U.S.C., relating to defense technology and industrial base, reinvestment, and conversion.

(b) TECHNOLOGY TRANSFER.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

(3) If a United States firm is required under the terms of a memorandum of understanding, or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country, the United States firm may protest the determination to the Secretary of Defense on the grounds that the transfer of such technology would adversely affect the defense industrial base of the United States and would result in substantial financial loss to the protesting firm. The Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, shall make the final determination of the validity of the protesting firm's claim.

(c) NOTIFICATION REGARDING OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

(d) DEFINITIONS.—In this section:

(1) The term "United States firm" means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

(2) The term "foreign firm" means a business entity other than a United States firm.

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SUBCHAPTER VI—DEFENSE EXPORT LOAN GUARANTEES [190]

Sec.
2540. Establishment of loan guarantee program.
2540a. Transferability.
2540b. Limitations.
2540c. Fees charged and collected.
2540d. Definitions.

§ 2540. Establishment of loan guarantee program

(a) ESTABLISHMENT.—In order to meet the national security objectives in section 2501(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

(1) A member nation of the North Atlantic Treaty Organization (NATO).

(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title.

(3) A country in Central Europe that, as determined by the Secretary of State—

(A) has changed its form of national government from a nondemocratic form of government to a democratic form of government since October 1, 1989; or

(B) is in the process of changing its form of national government from a nondemocratic form of government to a democratic form of government.

(4) A noncommunist country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of October 31, 1993.

(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

§ 2540a. Transferability

A guarantee issued under this subchapter shall be fully and freely transferable.

§ 2540b. Limitations

(a) TERMS AND CONDITIONS OF LOAN GUARANTEES.—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(b) LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(c) NO RIGHT OF ACCELERATION.—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this sub-

[190] Subchapter VI, secs. 2540–2540d, were added by sec. 1321(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 474).

chapter, other than in accordance with the original payment terms of the loan.

§ 2540c. Fees charged and collected

(a) EXPOSURE FEES.—The Secretary of Defense shall charge a fee (known as "exposure fee") for each guarantee issued under this subchapter.

(b) AMOUNT OF EXPOSURE FEE.—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under subsection (a) with respect to a loan guarantee shall be fixed in an amount that is sufficient to meet potential liabilities of the United States under the loan guarantee.

(c) PAYMENT TERMS.—The fee under subsection (a) for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

(d) ADMINISTRATIVE FEES.—The Secretary of Defense shall charge a fee for each guarantee issued under this subchapter to reflect the additional administrative costs of the Department of Defense that are directly attributable to the administration of the program under this subchapter. Such fees shall be credited to a special account in the Treasury. Amounts in the special account shall be available, to the extent and in amounts provided in appropriations Acts, for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

§ 2540d. Definitions

In this subchapter:

(1) The terms "defense article", "defense services", and "design and construction services" have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

(2) The term "cost", with respect to a loan guarantee, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).

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CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

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SUBCHAPTER II—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO THE ARMED FORCES

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§ 2547.[191] Excess nonlethal supplies: humanitarian relief

(a) The Secretary of Defense may make available for humanitarian relief purposes any nonlethal excess supplies of the Department of Defense.

(b) Excess supplies made available for humanitarian relief purposes under this section shall be transferred to the Secretary of State, who shall be responsible for the distribution of such supplies.

(c) This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require[192] a notice to the intelligence committees under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).[193]

(d)[194] In this section:

(1) "Nonlethal excess supplies" means property, other than real property of the Department of Defense—

(A) that is excess property, as defined in regulations of the Department of Defense; and

(B) that is not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily harm or death.

(2) "Intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

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§ 2551.[195] Humanitarian assistance

(a) AUTHORIZED ASSISTANCE.—To the extent provided in defense authorization Acts, funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

(b) AVAILABILITY OF FUNDS.—To the extent provided in appropriation Acts, funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended.

(c) STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (f) an annual report on the provision of humanitarian assistance pursuant to this section for the prior fiscal year. The report shall be submit-

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[191] Sec. 1454 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 761) added sec. 2547.

[192] Sec. 602(c)(3)(A) of Public Law 102–88 (105 Stat. 444) struck out a requirement for a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) for subsec. (c).

[193] Sec. 602(c)(3)(B) of Public Law 102–88 (105 Stat. 444) replaced reference to section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413) with reference to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

[194] Sec. 1322(a)(10) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1671) struck out par.(d) and redesignated (e) as (d). Former par. (d) required the Secretary of State to prepare an annual report on the disposition of all excess supplies transferred by the Secretary of Defense to the Secretary of State during the preceding year, to be submitted to the Committees on Armed Services and on Foreign Relations of the Senate and the Committees on Armed Services and on Foreign Affairs of the House of Representatives.

[195] Sec. 1312 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 474) amended this section by striking out subsecs. (b), (c), and (e), redesignating former subsec. (d) as subsec. (b), adding a new subsec. (c), redesignating former subsecs. (f) and (g) as subsecs. (d) and (e), respectively, and adding a new subsec. (f).

Originally added by sec. 304(c) of Public Law 102–484 (106 Stat. 2361).

ted each year at the time of the budget submission by the President for the next fiscal year.

(2) Each report required by paragraph (1) shall cover all provisions of law that authorize appropriations for humanitarian assistance to be available from the Department of Defense for the purposes of this section.

(3) Each report under this subsection shall set forth the following information regarding activities during the previous fiscal year:

(A) The total amount of funds obligated for humanitarian relief under this section.

(B) The number of scheduled and completed transportation missions for purposes of providing humanitarian assistance under this section.

(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title. The description shall include the date of the transfer, the entity to whom the transfer is made, and the quantity of items transferred.

(d) REPORT REGARDING RELIEF FOR UNAUTHORIZED COUNTRIES.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify "the congressional committees specified in subsection (f) and the Committees on Appropriations of the Senate and House of Representatives of the[196] Secretary's intention to provide such transportation. The notification shall be submitted not less than 15 days before the commencement of such transportation.

(e) DEFINITION.—In this section, the term "defense authorization Act" means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including authorizations of appropriations for the activities described in paragraph (7) of section 114(a) of this title.

(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsections (c)(1) and (d) are the following:

(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(2) The Committee on National Security and the Committee on International Relations of the House of Representatives.

§ 2552.[197] Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs

(a) LIMITATION.—Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of

[196] Sec. 1312(4) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 474) struck out "the Committees on Appropriations and on Armed Services of the Senate and House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives of the" and inserted in lieu thereof "the congressional committees specified in subsection (f) and the Committees on Appropriations of the Senate and House of Representatives of the".

[197] Added by sec. 4304(a) of Public Law 102–484 (106 Stat. 2699).

the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if—

(1) no department or agency of the Federal Government (other than the Department of Defense), no State, and no other person or entity eligible to receive excess or surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472 et seq.) submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2547 of this title.

(c) DEFINITION.—In this section, the term "construction or fire equipment" includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.

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§ 2576a.[198] Excess personal property: sale or donation for law enforcement activities

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by the agencies in law enforcement activities, including counter-drug and counter-terrorism activities; and

(B) excess to the needs of the Department of Defense.

(2) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

(b) CONDITIONS FOR TRANSFER.—The Secretary of Defense may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the recipient accepts the property on an as-is, where-is basis;

(3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the recipient.

(c) CONSIDERATION.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the recipient agency.

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[198] Sec. 1033(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2640) added sec. 2576a.

(d) PREFERENCE FOR CERTAIN TRANSFERS.—In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to those applications indicating that the transferred property will be used in the counter-drug or counter-terrorism activities of the recipient agency.

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CHAPTER 155—ACCEPTANCE OF GIFTS AND SERVICES

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§ 2608.[199] Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account

(a) ACCEPTANCE AUTHORITY.—The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money or real or personal property made by such person, foreign government, or international organization for use by the Department of Defense and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense.[200]

(b) ESTABLISHMENT OF DEFENSE COOPERATION ACCOUNT.—(1) There is established in the Treasury of the United States a special account to be known as the "Defense Cooperation Account".

(2) Contributions of money and proceeds from the sale of any property accepted by the Secretary of Defense under subsection (a) shall be credited to the Defense Cooperation Account.

(c) USE OF THE DEFENSE COOPERATION ACCOUNT.—(1) Funds in the Defense Cooperation Account may be appropriated for a function described in section 114 of this title only to the extent that the appropriation of such funds for such purpose is authorize in accordance with that section.

(2) Funds in the Defense Cooperation Account shall not be made available for obligation or expenditure except to the extent and in the manner provided in subsequent appropriations Acts.

(d) USE OF PROPERTY.—Any contribution of property received under this section may be—

(1) retained and used by the Department of Defense in the form in which it was donated;

(2) sold or otherwise disposed of upon such terms and conditions and in accordance with such procedures as the Secretary determines appropriate; or

(3) converted into a form usable by the Department of Defense.

(e) REPORTING REQUIREMENT.—(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense

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[199] Sec. 202(a) of Public Law 101–403 (104 Stat. 873) added sec. 2608, under the heading "Acceptance of contributions for defense programs, projects, and activities". Sec. 1105(b)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1750) restated the section heading.

[200] Sec. 1063 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2652) inserted "and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense" at the end of the sentence.

shall submit to Congress a report on contributions of property accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property having a value of more than $1,000,000.

(2) In computing the value of any property referred to in paragraph (1), the Secretary shall aggregate the value of—

(A) similar items of property accepted by the Secretary during the quarter concerned; and

(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

(f) AUTHORITY TO USE PROPERTY.—Property accepted under subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property may not be used in connection with any program, project, or activity if the use of such property would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity.

(g) INVESTMENT OF MONEY.—(1)[201] Upon request by the Secretary of Defense, the Secretary of the Treasury may invest money in the Defense Cooperation Account in securities of the United States or in securities guaranteed as to principal and interest by the United States.

(2) any interest or other income that accrues from investment insecurities referred to in paragraph (1) shall be deposited to the credit of the Defense Cooperation Account.

(h) NOTIFICATION OF CONDITIONS.—The Secretary of Defense shall notify Congress of any condition imposed by the donor on the use of any contribution accepted by the Secretary under the authority of this section.

(i)[202] PERIODIC AUDITS BY GAO.—The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

(j) ITEMS INCLUDED AS CONTRIBUTIONS.—In this section, the term "contribution" includes a devise of real property or a bequest of personal property.

(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

§ 2609.[203] * * * [Repealed—1996]

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SUBTITLE B—ARMY

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[201] Sec. 1061(a)(16) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1473) inserted par. designation (1).

[202] Sec. 1105(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1750) amended and restated subsec. (i).

[203] Added by sec. 242(f)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1605). Repealed by sec. 253(9) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 235). Sec. 2609 had authorized the Secretary of Defense to accept from allied foreign governments or international organizations contributions for use by the Department of Defense for Theater Missile Defense programs, and had established the Theater Missile Defense Cooperation Account.

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 433—PROCUREMENT

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§ 4543.[204] Army industrial facilities: sales of manufactured articles or services outside Department of Defense

(a) AUTHORITY TO SELL OUTSIDE DOD.—Regulations under section 2208(h) of this title shall authorize a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof to sell

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[204] Added by sec. 158(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1581). Sec. 158(c) of that Act provided:

"(c) DEADLINE FOR REGULATIONS.—Regulations under subsection (b) of section 4543 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 30 days after the date of the enactment of this Act.".

Sec. 141 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1652) provided the following:

"SEC. 141. PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.

"(a) PILOT PROGRAM REQUIRED.—During fiscal years 1998 and 1999, the Secretary of the Army shall carry out a pilot program to test the efficacy and appropriateness of selling manufactured articles and services of Army industrial facilities under section 4543 of title 10, United States Code, without regard to the availability of the articles and services from United States commercial sources. In carrying out the pilot program, the Secretary may use articles manufactured at, and services provided by, not more than three Army industrial facilities.

"(b) TEMPORARY WAIVER OF REQUIREMENT FOR DETERMINATION OF UNAVAILABILITY FROM DOMESTIC SOURCE.—Under the pilot program, the Secretary of the Army is not required under section 4543(a)(5) of title 10, United States Code, to determine whether an article or service is available from a commercial source located in the United States in the case of any of the following sales for which a solicitation of offers is issued during fiscal year 1998 or 1999:

"(1) A sale of articles to be incorporated into a weapon system being procured by the Department of Defense.

"(2) A sale of services to be used in the manufacture of a weapon system being procured by the Department of Defense.

"(c) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall review the experience under the pilot program under this section and, not later than July 1, 1999, submit to Congress a report on the results of the review. The report shall contain the following:

"(1) The Inspector General's views regarding the extent to which the waiver under subsection (b) enhances the opportunity for United States manufacturers, assemblers, developers, and other concerns to enter into or participate in contracts and teaming arrangements with Army industrial facilities under weapon system programs of the Department of Defense.

"(2) The Inspector General's views regarding the extent to which the waiver under subsection (b) enhances the opportunity for Army industrial facilities referred to in section 4543(a) of title 10, United States Code, to enter into or participate in contracts and teaming arrangements with United States manufacturers, assemblers, developers, and other concerns under weapon system programs of the Department of Defense.

"(3) The Inspector General's views regarding the effect of the waiver under subsection (b) on the ability of small businesses to compete for the sale of manufactured articles or services in the United States in competitions to enter into or participate in contracts and teaming arrangements under weapon system programs of the Department of Defense.

"(4) Specific examples under the pilot program that support the Inspector General's views.

"(5) Any other information that the Inspector General considers pertinent regarding the effects of the waiver of section 4543(a)(5) of title 10, United States Code, under the pilot program on opportunities for United States manufacturers, assemblers, developers, or other concerns, and for Army industrial facilities, to enter into or participate in contracts and teaming arrangements under weapon system programs of the Department of Defense.

"(6) Any recommendations that the Inspector General considers appropriate regarding continuation or modification of the policy set forth in section 4543(a)(5) of title 10, United States Code.".

manufactured[205] articles or services to a person outside the Department of Defense if—

(1) in the case of an article, the article is sold to a United States manufacturer, assembler, developer, or other concern—

(A) for use in developing new products;

(B) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States;

(C) for incorporation into items to be sold to, or to be used in a contract with, or to be used for purposes of soliciting a contract with, a friendly foreign government; or

(D) for use in commercial products;

(2) in the case of an article, the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

(3) the sale is to be made on a basis that does not interfere with performance of work by the facility for the Department of Defense or for a contractor of the Department of Defense;[206]

(4) in the case of services, the services are related to an article authorized to be sold under this section and are to be performed in the United States for the purchaser;[206]

(5)[206] the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

(6)[206] the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in a case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the article or service;

(7)[206] the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting;

(8)[206] it is in the public interest to manufacture such article or perform such service; and

(9)[206] the sale will not interfere with performance of the military mission of the industrial facility.

(b) ADDITIONAL REQUIREMENTS.—The regulations shall also—

(1) require that the authority to sell articles or services under the regulations be exercised at the level of the commander of the major subordinate command of the Army with responsibility over the facility concerned;

(2) authorize a purchaser of articles or services to use advance incremental funding to pay for the articles or services; and

(3) in the case of a sale of commercial articles or commercial services in accordance with subsection (a) by a facility that manufactures large caliber cannons, gun mounts, or recoil mechanisms, or components thereof, authorize such facility—

[205] Sec. 141(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688) struck out "nondefense-related commercial" after "manufactured".

[206] Sec. 141 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688) struck out "and" at the end or para. (3); struck out a period at the end of para. (4), and inserted in lieu thereof a semicolon; and added new paras. (5) through (9).

(A) to charge the buyer, at a minimum, the variable costs that are associated with the commercial articles or commercial services sold;

(B) to enter into a firm, fixed-price contract or, if agreed by the buyer, a cost reimbursement contract for the sale; and

(C) to develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the commercial articles or commercial services sold.

(c) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(d) DEFINITIONS.—In this section:

(1) The term "commercial article" means an article that is usable for a nondefense purpose.

(2) The term "commercial service" means a service that is usable for a nondefense purpose.

(3) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(4) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

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SUBTITLE C—NAVY AND MARINE CORPS

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PART IV—GENERAL ADMINISTRATION

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CHAPTER 633—NAVAL VESSELS

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§ 7307.[207] Disposals to foreign nations

(a) LARGER OR NEWER VESSELS.—A naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is approved by law enacted after August 5, 1974. A lease or loan of such a vessel under such a law may be made only in accordance with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.).

(b) OTHER VESSELS.—(1) A naval vessel not subject to subsection (a) may be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) in accordance with applicable provisions of law, but only after—

(A) the Secretary of the Navy notifies the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives[208] in writing of the proposed disposition; and

(B) 30 days of continuous session of Congress have expired following the date on which such notice is sent to those committees.

(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

§ 7308.[207] Chief of Naval Operations: certification required for disposal of combatant vessels

Notwithstanding any other provision of law, no combatant vessel of the Navy may be sold, transferred, or otherwise disposed of unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.

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SUBTITLE D—AIR FORCE

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PART III—TRAINING

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CHAPTER 907—SCHOOLS AND CAMPS

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[207] Secs. 7307 and 7308 were amended and restated by sec. 824 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1708).

[208] Sec. 1502(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 502) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

§ 9415.[209] Inter-American Air Forces Academy

(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training to military personnel of Central and South American countries, Caribbean countries, and other countries eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(b) COSTS.—The fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force.[210]

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[209] Sec. 330(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1535) added sec. 9415.

[210] Sec. 8113 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1904) provided the following:

"SEC. 8113. Funds made available under this Act to the Air Force for 'Operation and Maintenance' may be used to operate the United States Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training only to military personnel who are nationals of Central, South American and Caribbean countries: *Provided,* That only the fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force without reimbursement pursuant to section 37 of the Arms Export Control Act or section 632 of the Foreign Assistance Act or any other provision of law: *Provided further,* That no individual may be admitted to the Inter-American Air Forces Academy who has been convicted of a human rights violation, or is known to United States authorities to have committed, been an accessory to, or in an official capacity had knowledge of but failed to take remedial action concerning a human rights violation: *Provided further,* That the Air Force must provide concentrated instruction in democratic government and human rights protections to each attendee of IAAFA: *Provided further,* That the Air Force will provide the Committees on Appropriations of the House and Senate, no later than March 1, 1991, with a report on the operation of IAAFA and its curriculum, as well as a statistical and biographical profile of its students.".

b. National Defense Authorization Act for Fiscal Year 1998

Partial text of Public Law 105–85 [H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1998".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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Subtitle A—Authorization of Appropriations

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SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1998 the amount of $600,700,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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Subtitle C—Ballistic Missile Defense Programs

SEC. 231.[1] NATIONAL MISSILE DEFENSE PROGRAM.

(a) PROGRAM STRUCTURE.—To preserve the option of achieving an initial operational capability in fiscal year 2003, the Secretary of Defense shall ensure that the National Missile Defense Program is structured and programmed for funding so as to support a test, in fiscal year 1999, of an integrated national missile defense system that is representative of the national missile defense system architecture that could achieve initial operational capability in fiscal year 2003.

(b) ELEMENTS OF NMD SYSTEM.—The national missile defense system architecture specified in subsection (a) shall consist of the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

(2) Ground-based radars.

(3) Space-based sensors.

(4) Battle management, command, control, and communications (BM/C^3).

(c) PLAN FOR NMD SYSTEM DEVELOPMENT AND DEPLOYMENT.—Not later than February 15, 1998, the Secretary of Defense shall submit to the congressional defense committees a plan for the development and deployment of a national missile defense system that could achieve initial operational capability in fiscal year 2003. The plan shall include the following matters:

(1) A detailed description of the system architecture selected for development.

(2) A discussion of the justification for the selection of that particular architecture.

(3) The Secretary's estimate of the amounts of the appropriations that would be necessary for research, development, test, evaluation, and for procurement for each of fiscal years 1999 through 2003 in order to achieve an initial operational capability of the system architecture in fiscal year 2003.

(4) For each activity necessary for the development and deployment of the national missile defense system architecture selected by the Secretary that would at some point conflict with the terms of the ABM Treaty, if any—

(A) a description of the activity;

(B) a description of the point at which the activity would conflict with the terms of the ABM Treaty;

[1] 10 U.S.C. 2431 note.

(C) the legal analysis justifying the Secretary's determination regarding the point at which the activity would conflict with the terms of the ABM Treaty; and

(D) an estimate of the time at which such point would be reached in order to achieve a test of an integrated missile defense system in fiscal year 1999 and initial operational capability of such a system in fiscal year 2003.

(d) FUNDING FOR FISCAL YEAR 1998.—Of the funds authorized to be appropriated under section 201(4), $978,091,000 shall be available for the National Missile Defense Program.

(e) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972, and includes the Protocol to that treaty, signed at Moscow on July 3, 1974.

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SEC. 233.[2] COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM.

(a) REQUIREMENT FOR NEW PROGRAM ELEMENT.—The Secretary of Defense shall establish a program element for the Ballistic Missile Defense Organization, to be referred to as the "Cooperative Ballistic Missile Defense Program", to support technical and analytical cooperative efforts between the United States and other nations that contribute to United States ballistic missile defense capabilities. Except as provided in subsection (b), all international cooperative ballistic missile defense programs of the Department of Defense shall be budgeted and administered through that program element.

(b) AUTHORITY FOR EXCEPTIONS.—The Secretary of Defense may exclude from the program element established pursuant to subsection (a) any international cooperative ballistic missile defense program of the Department of Defense that after the date of the enactment of this Act is designated by the Secretary of Defense (pursuant to applicable Department of Defense acquisition regulations and policy) to be managed as a separate acquisition program.

(c) RELATIONSHIP TO OTHER PROGRAM ELEMENTS.—The program element established pursuant to subsection (a) is in addition to the program elements for activities of the Ballistic Missile Defense Organization required under section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 233; 10 U.S.C. 221 note).

SEC. 234.[3] ANNUAL REPORT ON THREAT POSED TO THE UNITED STATES BY WEAPONS OF MASS DESTRUCTION, BALLISTIC MISSILES, AND CRUISE MISSILES.

(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress by January 30 of each year a report on the threats posed to the United States and allies of the United States—

(1) by weapons of mass destruction, ballistic missiles, and cruise missiles; and

[2] 10 U.S.C. 221 note.
[3] 50 U.S.C. 2367.

(2) by the proliferation of weapons of mass destruction, ballistic missiles, and cruise missiles.

(b) CONSULTATION.—Each report submitted under subsection (a) shall be prepared in consultation with the Director of Central Intelligence.

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) Identification of each foreign country and non-State organization that possesses weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(2) A description of the means by which any foreign country and non-State organization that has achieved capability with respect to weapons of mass destruction, ballistic missiles, or cruise missiles has achieved that capability, including a description of the international network of foreign countries and private entities that provide assistance to foreign countries and non-State organizations in achieving that capability.

(3) An examination of the doctrines that guide the use of weapons of mass destruction in each foreign country that possesses such weapons.

(4) An examination of the existence and implementation of the control mechanisms that exist with respect to nuclear weapons in each foreign country that possesses such weapons.

(5) Identification of each foreign country and non-State organization that seeks to acquire or develop (indigenously or with foreign assistance) weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(6) An assessment of various possible timelines for the achievement by foreign countries and non-State organizations of capability with respect to weapons of mass destruction, ballistic missiles, and cruise missiles, taking into account the probability of whether the Russian Federation and the People's Republic of China will comply with the Missile Technology Control Regime, the potential availability of assistance from foreign technical specialists, and the potential for independent sales by foreign private entities without authorization from their national governments.

(7) For each foreign country or non-State organization that has not achieved the capability to target the United States or its territories with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of this Act, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

(8) For each foreign country or non-State organization that has not achieved the capability to target members of the United States Armed Forces deployed abroad with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of this Act, an estimate of how far in ad-

vance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

(d) CLASSIFICATION.—Each report under subsection (a) shall be submitted in classified and unclassified form.

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Subtitle D—Other Matters

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1998 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * *

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $47,130,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $666,882,000.

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(23) For Cooperative Threat Reduction programs, $382,200,000.

(24) For Overseas Contingency Operations Transfer Fund, $1,253,900,000.

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Subtitle C—Environmental Provisions

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SEC. 345. ANNUAL REPORT ON ENVIRONMENTAL ACTIVITIES OF THE DEPARTMENT OF DEFENSE OVERSEAS.

Section 2706 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) REPORT ON ENVIRONMENTAL ACTIVITIES OVERSEAS.—(1) The Secretary of Defense shall submit to Congress each year, not later than 30 days after the date on which the President submits to Congress the budget for a fiscal year, a report on the environmental activities of the Department of Defense overseas.

"(2) Each such report shall include a statement of the funding levels during such fiscal year for each of the following categories:

"(A) Compliance by the Department of Defense with requirements under a treaty, law, contract, or other agreement for environmental restoration or compliance activities.

"(B) Performance by the Department of Defense of other environmental restoration and compliance activities overseas.

"(C) Performance by the Department of Defense of any other overseas activities related to the environment, including conferences, meetings, and studies for pilot programs, and travel related to such activities.".

SEC. 346. REVIEW OF EXISTING ENVIRONMENTAL CONSEQUENCES OF THE PRESENCE OF THE ARMED FORCES IN BERMUDA.

Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on any remaining environmental effects of the presence of the Armed Forces of the United States in Bermuda.

SEC. 347. SENSE OF CONGRESS ON DEPLOYMENT OF UNITED STATES ARMED FORCES ABROAD FOR ENVIRONMENTAL PRESERVATION ACTIVITIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that members of the Army, Navy, Air Force, and Marine Corps should not be deployed outside the United States to provide assistance to another nation in connection with environmental preservation activities in that nation, unless the Secretary of Defense determines that such activities are necessary for national security purposes.

(b) SCOPE OF SECTION.—For purposes of this section, environmental preservation activities do not include any of the following:

(1) Activities undertaken for humanitarian purposes, disaster relief activities, peacekeeping activities, or operational training activities.

(2) Environmental compliance and restoration activities associated with military installations and deployments outside the United States.

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Subtitle F—Other Matters

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SEC. 382. CENTER FOR EXCELLENCE IN DISASTER MANAGEMENT AND HUMANITARIAN ASSISTANCE.

(a) ESTABLISHMENT AND OPERATION OF CENTER.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section: * * *[4]

(b) FUNDING FOR FISCAL YEAR 1998.—Of the funds authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for the operation of the Center for Excellence in Disaster Management and Humanitarian Assistance established under section 182 of title 10, United States Code, as added by subsection (a).

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

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[4] See 10 U.S.C. 182, page 376.

SEC. 402. PERMANENT END STRENGTH LEVELS TO SUPPORT TWO MAJOR REGIONAL CONTINGENCIES. * * *[5]

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TITLE X—GENERAL PROVISIONS

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Subtitle A—Financial Matters

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SEC. 1004. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1997.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1997 in the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (Public Law 105–18).

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SEC. 1025. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUTHORITY.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) To the Government of Brazil, the HUNLEY class submarine tender HOLLAND (AS 32).

(2) To the Government of Chile, the KAISER class oiler ISHERWOOD (T–AO 191).

(3) To the Government of Egypt:

(A) The following frigates of the KNOX class:

(i) The PAUL (FF 1080).

(ii) The MILLER (FF 1091).

(iii) The JESSE L. BROWN (FFT 1089).

(iv) The MOINESTER (FFT 1097).

(B) The following frigates of the OLIVER HAZARD PERRY class:

(i) The FAHRION (FFG 22).

(ii) The LEWIS B. PULLER (FFG 23).

(4) To the Government of Israel, the NEWPORT class tank landing ship PEORIA (LST 1183).

(5) To the Government of Malaysia, the NEWPORT class tank landing ship BARBOUR COUNTY (LST 1195).

(6) To the Government of Mexico, the KNOX class frigate ROARK (FF 1053).

(7) To the Taipei Economic and Cultural Representative Office in the United States (the Taiwan instrumentality that is

[5] See 10 U.S.C. 691, page 389.

designated pursuant to section 10(a) of the Taiwan Relations Act), the following frigates of the KNOX class:

(A) The WHIPPLE (FF 1062).

(B) The DOWNES (FF 1070).

(8) To the Government of Thailand, the NEWPORT class tank landing ship SCHENECTADY (LST 1185).

(b) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient.

(c) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(d) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1026. REPORTS RELATING TO EXPORT OF VESSELS THAT MAY CONTAIN POLYCHLORINATED BIPHENYLS.

(a) REPORTS REQUIRED.—Not later than March 1, 1998, the Secretary of the Navy (with respect to the Navy), the Administrator of the Maritime Administration (with respect to the Maritime Administration), and the Administrator of the Environmental Protection Agency (with respect to the Environmental Protection Agency) shall each submit to Congress a report on the implementation of the agreement between the Department of the Navy and the Environmental Protection Agency that became effective August 6, 1997, and that is titled "Export of Naval Vessels that May Contain Polychlorinated Biphenyls for Scrapping Outside the United States".

(b) CONTENTS OF REPORTS.—The reports required by subsection (a) shall address, at a minimum, the following:

(1) An assessment of the effects of the notification requirements regarding the export of vessels for scrapping, any impediments that those requirements may create for the export of vessels, and any changes to the agreement that may be required to address those impediments.

(2) An explanation of the process by which it is determined which solid items containing polychlorinated biphenyls are readily removable and must be removed before the export of a vessel for scrapping, what types of polychlorinated biphenyls have been determined to be readily removable pursuant to this process, any impediments that such determinations may create for the export of vessels, and any changes to the agreement that may be required to address those impediments or to ensure protection of human health and the environment.

(c) AMENDMENTS RELATING TO DISPOSAL OF OBSOLETE VESSELS FROM THE NATIONAL DEFENSE RESERVE FLEET.—Section 6 of the National Maritime Heritage Act of 1994 (Public Law 103–451; 108 Stat. 4776; 16 U.S.C. 5405) is amended—* * *

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Subtitle C—Counter-Drug Activities

SEC. 1031. USE OF NATIONAL GUARD FOR STATE DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES. * * *[6]

SEC. 1032. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.

(a) EXTENSION OF AUTHORITY; CONSULTATION OF SECRETARY OF STATE.—Subsection (a) of section 1031 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2637), is amended—[7]

(1) by striking out "fiscal year 1997" and inserting in lieu thereof "fiscal years 1997 and 1998"; and

(2) by inserting after the first sentence the following new sentence: "In providing support to the Government of Mexico under this section, the Secretary of Defense shall consult with the Secretary of State.".

(b) EXTENSION OF AVAILABILITY OF FUNDS.—Subsection (d) of such section is amended—

(1) by striking out "not more than" and inserting in lieu thereof "an amount not to exceed"; and

(2) by adding at the end the following new sentences: "Funds made available for fiscal year 1997 under this subsection and unobligated by September 30, 1997, may be obligated during fiscal year 1998. No funds are authorized to be appropriated for fiscal year 1998 for the provision of support under this section.".

SEC. 1033. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF PERU AND COLOMBIA.

(a) AUTHORITY TO PROVIDE SUPPORT.—Subject to subsection (f), during fiscal years 1998 through 2002, the Secretary of Defense may provide either or both of the foreign governments named in subsection (b) with the support described in subsection (c) for the counter-drug activities of that government. In providing support to a government under this section, the Secretary of Defense shall consult with the Secretary of State. The support provided under the authority of this section shall be in addition to support provided to the governments under any other provision of law.

(b) GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—The foreign governments eligible to receive counter-drug support under this section are as follows:

(1) The Government of Peru.

(2) The Government of Colombia.

(c) TYPES OF SUPPORT.—The authority under subsection (a) is limited to the provision of the following types of support to a government named in subsection (b):

(1) The types of support specified in paragraphs (1), (2), and (3) of section 1031(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2637).

(2) The transfer of riverine patrol boats.

(3) The maintenance and repair of equipment of the government that is used for counter-drug activities.

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[6] Sec. 1031 amended 32 U.S.C. 112.

[7] For sec. 1031 of Public Law 104–201, see page 503.

(d) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

(e) FISCAL YEAR 1998 FUNDING; LIMITATION ON OBLIGATIONS.—(1) Of the amount authorized to be appropriated under section 301(20) for drug interdiction and counter-drug activities, an amount not to exceed $9,000,000 shall be available for the provision of support under this section.

(2) Amounts made available to carry out this section shall remain available until expended, except that the total amount obligated and expended under this section may not exceed $20,000,000 during any of the fiscal years 1999 through 2002.

(f) CONDITION ON PROVISION OF SUPPORT.—(1) The Secretary of Defense may not obligate or expend funds during a fiscal year to provide support under this section to a government named in subsection (b) until the end of the 15-day period beginning on the date on which the Secretary submits to the congressional committees the written certification described in subsection (g) for that fiscal year.

(2) In the case of the first fiscal year in which support is to be provided under this section to a government named in subsection (b), the obligation or expenditure of funds under this section to provide support to that government shall also be subject to the condition that—

(A) the Secretary submit to the congressional committees the riverine counter-drug plan described in subsection (h); and

(B) a period of 60 days expires after the date on which the report is submitted.

(3) In the case of subsequent fiscal years in which support is to be provided under this section to a government named in subsection (b), the obligation or expenditure of funds under this section to provide support to that government shall also be subject to the condition that the Secretary submit to the congressional committees any revision of the counter-drug plan described in subsection (h) applicable to that government.

(4) For purposes of this subsection, the term "congressional committees" means the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

(g) REQUIRED CERTIFICATION.—The written certification required by subsection (f)(1) for a fiscal year is a certification of the following with respect to each government to receive support under this section:

(1) That the provision of the support to the government will not adversely affect the military preparedness of the United States Armed Forces.

(2) That the equipment and materiel provided as support will be used only by officials and employees of the government who have undergone background investigations by that government and have been approved by that government to perform

counter-drug activities on the basis of the background investigations.

(3) That the government has certified to the Secretary of Defense that—

(A) the equipment and materiel provided as support will be used only by the officials and employees referred to in paragraph (2);

(B) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(C) the equipment and materiel will be used only for the purposes intended by the United States Government.

(4) That the government has implemented, to the satisfaction of the Secretary of Defense, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(5) That the departments, agencies, and instrumentalities of the government will grant United States Government personnel access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(6) That the government will provide security with respect to the equipment and materiel provided as support that is substantially the same degree of security that the United States Government would provide with respect to such equipment and materiel.

(7) That the government will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(h) RIVERINE COUNTER-DRUG PLAN.—The Secretary of Defense, in consultation with the Secretary of State, shall prepare for fiscal year 1998 (and revise as necessary for subsequent fiscal years) a riverine counter-drug plan involving the governments named in subsection (b) to which support will be provided under this section. The plan for a fiscal year shall include the following with respect to each government to receive support under this section:

(1) A detailed security assessment, including a discussion of the threat posed by illicit drug traffickers in the foreign country.

(2) An evaluation of previous and ongoing riverine counter-drug operations by the government.

(3) An assessment of the monitoring of past and current assistance provided by the United States under this section to the government to ensure the appropriate use of such assistance.

(4) A description of the centralized management and coordination among Federal agencies involved in the development and implementation of the plan.

(5) A description of the roles and missions and coordination among agencies of the government involved in the development and implementation of the plan.

(6) A description of the resources to be contributed by the Department of Defense and the Department of State for the fiscal year or years covered by the plan and the manner in which such resources will be utilized under the plan.

(7) For the first fiscal year in which support is to be provided under this section, a schedule for establishing a riverine counter-drug program that can be sustained by the government within five years, and for subsequent fiscal years, a description of the progress made in establishing and carrying out the program.

(8) A reporting system to measure the effectiveness of the riverine counter-drug program.

(9) A detailed discussion of how the riverine counter-drug program supports the national drug control strategy of the United States.

SEC. 1034.[8] ANNUAL REPORT ON DEVELOPMENT AND DEPLOYMENT OF NARCOTICS DETECTION TECHNOLOGIES.

(a) REPORT REQUIREMENT.—Not later than December 1st of each year, the Director of the Office of National Drug Control Policy shall submit to Congress and the President a report on the development and deployment of narcotics detection technologies by Federal agencies. Each such report shall be prepared in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Transportation, and the Secretary of the Treasury.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include—

(1) a description of each project implemented by a Federal agency relating to the development or deployment of narcotics detection technology;

(2) the agency responsible for each project described in paragraph (1);

(3) the amount of funds obligated or expended to carry out each project described in paragraph (1) during the fiscal year in which the report is submitted or during any fiscal year preceding the fiscal year in which the report is submitted;

(4) the amount of funds estimated to be obligated or expended for each project described in paragraph (1) during any fiscal year after the fiscal year in which the report is submitted to Congress; and

(5) a detailed timeline for implementation of each project described in paragraph (1).

Subtitle D—Miscellaneous Report Requirements and Repeals

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[8] 21 U.S.C. 1505a.

SEC. 1043. OVERSEAS INFRASTRUCTURE REQUIREMENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) United States military forces have been withdrawn from the Philippines.

(2) United States military forces are to be withdrawn from Panama by 2000.

(3) There continues to be local opposition to the continued presence of United States military forces in Okinawa.

(4) The Quadrennial Defense Review lists "the loss of U.S. access to critical facilities and lines of communication in key regions" as one of the so-called "wild card" scenarios covered in the review.

(5) The National Defense Panel states that "U.S. forces' long-term access to forward bases, to include air bases, ports, and logistics facilities, cannot be assumed".

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

(1) the President should develop alternatives to the current arrangement for forward basing of the Armed Forces outside the United States, including alternatives to the existing infrastructure for forward basing of forces and alternatives to the existing international agreements that provide for basing of United States forces in foreign countries; and

(2) because the Pacific Rim continues to emerge as a region of significant economic and military importance to the United States, a continued presence of the Armed Forces in that region is vital to the capability of the United States to timely protect its interests in the region.

(c) REPORT REQUIRED.—Not later than March 31, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the overseas infrastructure requirements of the Armed Forces.

(d) CONTENT.—The report shall contain the following:

(1) The quantity and types of forces that the United States must station in each region of the world in order to support the current national military strategy of the United States.

(2) The quantity and types of forces that the United States will need to station in each region of the world in order to meet the expected or potential future threats to the national security interests of the United States.

(3) The requirements for access to, and use of, air space and ground maneuver areas in each such region for training for the quantity and types of forces identified for the region pursuant to paragraphs (1) and (2).

(4) A list of the international agreements, currently in force, that the United States has entered into with foreign countries regarding the basing of United States forces in those countries and the dates on which the agreements expire.

(5) A discussion of any anticipated political opposition or other opposition to the renewal of any of those international agreements.

(6) A discussion of future overseas basing requirements for United States forces, taking into account expected changes in

national security strategy, national security environment, and weapons systems.

(7) The expected costs of maintaining the overseas infrastructure for foreign based forces of the United States, including the costs of constructing any new facilities that will be necessary overseas to meet emerging requirements relating to the national security interests of the United States.

(e) FORM OF REPORT.—The report may be submitted in a classified or unclassified form.

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Subtitle E—Matters Relating to Terrorism

SEC. 1051.[9] OVERSIGHT OF COUNTERTERRORISM AND ANTITERRORISM ACTIVITIES; REPORT.

(a) OVERSIGHT OF COUNTERTERRORISM AND ANTITERRORISM ACTIVITIES.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) establish a reporting system for executive agencies with respect to the budget and expenditure of funds by such agencies for the purpose of carrying out counterterrorism and antiterrorism programs and activities; and

(2) using such reporting system, collect information on—

(A) the budget and expenditure of funds by executive agencies during the current fiscal year for purposes of carrying out counterterrorism and antiterrorism programs and activities; and

(B) the specific programs and activities for which such funds were expended.

(b) REPORT.—Not later that March 1 of each year, the President shall submit to Congress a report in classified and unclassified form (using the information described in subsection (a)(2)) describing, for each executive agency and for the executive branch as a whole, the following:

(1) The amounts proposed to be expended for counterterrorism and antiterrorism programs and activities for the fiscal year beginning in the calendar year in which the report is submitted.

(2) The amounts proposed to be expended for counterterrorism and antiterrorism programs and activities for the fiscal year in which the report is submitted and the amounts that have already been expended for such programs and activities for that fiscal year.

(3) The specific counterterrorism and antiterrorism programs and activities being implemented, any priorities with respect to such programs and activities, and whether there has been any duplication of efforts in implementing such programs and activities.

[9] 31 U.S.C. 1113 note.

SEC. 1052.[10] PROVISION OF ADEQUATE TROOP PROTECTION EQUIPMENT FOR ARMED FORCES PERSONNEL ENGAGED IN PEACE OPERATIONS; REPORT ON ANTITERRORISM ACTIVITIES AND PROTECTION OF PERSONNEL.

(a) PROTECTION OF PERSONNEL.—The Secretary of Defense shall take appropriate actions to ensure that units of the Armed Forces engaged in a peace operation are provided adequate troop protection equipment for that operation.

(b) SPECIFIC ACTIONS.—In taking actions under subsection (a), the Secretary shall—

(1) identify the additional troop protection equipment, if any, required to equip a division (or the equivalent of a division) with adequate troop protection equipment for peace operations; and

(2) establish procedures to facilitate the exchange or transfer of troop protection equipment among units of the Armed Forces.

(c) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary of Defense shall designate an official within the Department of Defense to be responsible for—

(1) ensuring the appropriate allocation of troop protection equipment among the units of the Armed Forces engaged in peace operations; and

(2) monitoring the availability, status or condition, and location of such equipment.

(d) TROOP PROTECTION EQUIPMENT DEFINED.—In this section, the term "troop protection equipment" means the equipment required by units of the Armed Forces to defend against any hostile threat that is likely during a peace operation, including an attack by a hostile crowd, small arms fire, mines, and a terrorist bombing attack.

(e) REPORT ON ANTITERRORISM ACTIVITIES OF THE DEPARTMENT OF DEFENSE AND PROTECTION OF PERSONNEL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report, in classified and unclassified form, on antiterrorism activities of the Department of Defense and the actions taken by the Secretary under subsections (a), (b), and (c). The report shall include the following:

(1) A description of the programs designed to carry out antiterrorism activities of the Department of Defense, any deficiencies in those programs, and any actions taken by the Secretary to improve implementation of such programs.

(2) An assessment of the current policies and practices of the Department of Defense with respect to the protection of members of the Armed Forces overseas against terrorist attack, including any modifications to such policies or practices that are proposed or implemented as a result of the assessment.

(3) An assessment of the procedures of the Department of Defense for determining accountability, if any, in the command structure of the Armed Forces in instances in which a terrorist attack results in the loss of life at an overseas military installation or facility.

[10] 10 U.S.C. 113 note.

(4) A detailed description of the roles of the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, and the combatant commanders in providing guidance and support with respect to the protection of members of the Armed Forces deployed overseas against terrorist attack (both before and after the November 1995 bombing in Riyadh, Saudi Arabia) and how these roles have changed since the June 25, 1996, terrorist bombing at Khobar Towers in Dhahran, Saudi Arabia.

(5) A description of the actions taken by the Secretary of Defense under subsections (a), (b), and (c) to provide adequate troop protection equipment for units of the Armed Forces engaged in a peace operation.

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Subtitle F—Matters Relating to Defense Property

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SEC. 1064. AUTHORITY OF THE SECRETARY OF DEFENSE CONCERNING DISPOSAL OF ASSETS UNDER COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE.

(a) GENERAL AUTHORITIES.—The Secretary of Defense, pursuant to an amendment or amendments to the European air defense agreements, may dispose of any defense articles owned by the United States and acquired to carry out such agreements by providing such articles to the Federal Republic of Germany. In carrying out such disposal, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in exchange for the articles provided under paragraph (1)) articles, services, or any other consideration, as determined appropriate by the Secretary.

(b) DEFINITION OF EUROPEAN AIR DEFENSE AGREEMENTS.—For the purposes of this section, the term "European air defense agreements" means—

(1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983; and

(2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—United States Armed Forces in Bosnia and Herzegovina

Sec. 1201. Findings.
Sec. 1202. Sense of Congress.

Sec. 1203. Withdrawal of United States ground forces from Republic of Bosnia and Herzegovina.
Sec. 1204. Secretary of Defense reports on tasks carried out by United States forces.
Sec. 1205. Presidential report on situation in Republic of Bosnia and Herzegovina.
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Sec. 1221. Defense burdensharing.
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Sec. 1229. Report on Helsinki Joint Statement.
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Sec. 1231. Sense of Congress regarding Cambodia.
Sec. 1232. Congratulating Governor Christopher Patten of Hong Kong.

Subtitle A—United States Armed Forces in Bosnia and Herzegovina

SEC. 1201. FINDINGS.

The Congress finds the following:

(1) United States Armed Forces were deployed to the Republic of Bosnia and Herzegovina as part of the North Atlantic Treaty Organization (NATO) Implementation Force (IFOR) to implement the military aspects of the Dayton Peace Agreement.

(2) The military aspects of the Dayton Peace Agreement have been successfully implemented to date with the military forces of the warring factions successfully separated and a cessation in the hostilities that resulted in the deaths of hundreds of thousands of Bosnians.

(3) Implementation of the civil aspects of the Dayton Peace Agreement has lagged far behind the schedule for such implementation envisioned in the Agreement with the result that United States Armed Forces have undertaken a prolonged engagement in the Republic of Bosnia and Herzegovina.

(4) On December 13, 1995, the President stated in a letter to Congress, "NATO and U.S. military commanders believe, and I expect, that the military mission can be accomplished in about a year. Twelve months will allow IFOR time to complete the military tasks assigned in the Dayton agreement and to establish a secure environment, in which political and economic reconstruction efforts by the parties and international civilian

agencies can take hold. Within one year, we expect that the military provisions of the Dayton agreement will have been carried out, implementation of the civilian aspects and economic reconstruction will have been firmly launched, free elections will have been held under international supervision and a stable military balance will have been established."

(5) Notwithstanding a number of assurances relating to the accomplishment of the military mission in the Republic of Bosnia and Herzegovina by December 1996, the President, on November 15, 1996, announced his decision to extend the presence of United States forces in the Republic of Bosnia and Herzegovina to participate in the NATO Stabilization Force (SFOR) until June 1998.

(6) Despite initial projections by the Department of Defense that the costs of United States operations in the Republic of Bosnia and Herzegovina would total $1,500,000,000, the projected cost of United States operations in the Republic of Bosnia and Herzegovina through June 1998 is estimated to exceed $7,000,000,000.

(7) The fiscal year 1998 estimate of the Department of Defense for operations in the Republic of Bosnia and Herzegovina assumes that the level of military forces participating in SFOR will be reduced soon after the start of the fiscal year.

(8) The President and the Secretary of Defense have stated that United States forces are to be withdrawn from the Republic of Bosnia and Herzegovina by the end of June 1998.

SEC. 1202. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States ground combat forces should not participate in a follow-on force in the Republic of Bosnia and Herzegovina after June 1998;

(2) the European Security and Defense Identity, which, as facilitated by the Combined Joint Task Forces concept, enables the Western European Union, with the consent of the North Atlantic Alliance, to assume political control and strategic direction of NATO assets made available for the Alliance, may be an ideal instrument for a follow-on force for the Republic of Bosnia and Herzegovina;

(3) a NATO-led force without the participation of United States ground combat forces in the Republic of Bosnia and Herzegovina may be suitable for a follow-on force for the Republic of Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission;

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform our European NATO allies of this expression of the sense of Congress and should urge them strongly to undertake preparations for a Western European Union-led or NATO-led force as a follow-on force to the

NATO-led SFOR if needed to maintain peace and stability in the Republic of Bosnia and Herzegovina; and

(6) the President should consult with the Congress with respect to any support to be provided to a Western European Union-led or NATO-led follow-on force in the Republic of Bosnia and Herzegovina after June 30, 1998.

SEC. 1203.[11] WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA .

(a) LIMITATION.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1998 or any subsequent fiscal year may be used for the deployment of any United States ground combat forces in the Republic of Bosnia and Herzegovina after June 30, 1998, unless the President, not later than May 15, 1998, and after consultation with the bipartisan leadership of the two Houses of Congress, transmits to Congress a certification—

(1) that the continued presence of United States ground combat forces, after June 30, 1998, in the Republic of Bosnia and Herzegovina is required in order to meet the national security interests of the United States; and

(2) that after June 30, 1998, it will remain United States policy that United States ground forces will not serve as, or be used as, civil police in the Republic of Bosnia and Herzegovina.

(b) REPORT.—The President shall submit with the certification under subsection (a) a report that includes the following:

(1) The reasons why that presence is in the national security interest of the United States.

(2) The number of United States military personnel to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after that date.

(3) The expected duration of any such deployment.

(4) The mission and objectives of the United States Armed Forces to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after June 30, 1998.

(5) The exit strategy of such forces.

(6) The incremental costs associated with any such deployment.

(7) The effect of such deployment on the morale, retention, and effectiveness of United States armed forces.

(8) A description of the forces from other nations involved in a follow-on mission, shown on a nation-by-nation basis.

(9) A description of the command and control arrangement established for United States forces involved in a follow-on mission.

(10) An assessment of the expected threats to United States forces involved in a follow-on mission.

(11) The plan for rotating units and personnel to and from the Republic of Bosnia and Herzegovina during a follow-on mission, including the level of participation by reserve component units and personnel.

[11] 10 U.S.C. 114 note.

(12) The mission statement and operational goals of the United States forces involved in a follow-on mission.

(c) REQUEST FOR SUPPLEMENTAL APPROPRIATIONS.—The President shall transmit to Congress with a certification under subsection (a) a supplemental appropriations request for the Department of Defense for such amounts as are necessary for the costs of any continued deployment beyond June 30, 1998.

(d) CONSTRUCTION WITH PRESIDENT'S CONSTITUTIONAL AUTHORITY.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(e) CONSTRUCTION WITH APPROPRIATIONS PROVISION.—The provisions of this section are enacted, and shall be applied, as supplemental to (and not in lieu of) the provisions of section 8132 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56).

SEC. 1204. SECRETARY OF DEFENSE REPORTS ON TASKS CARRIED OUT BY UNITED STATES FORCES.

(a) REQUIREMENT FOR TWO REPORTS.—The Secretary of Defense shall submit to the congressional defense committees—

(1) not later than December 15, 1997, a report identifying each activity being carried out, as of December 1, 1997, by covered United States forces in the Republic of Bosnia and Herzegovina; and

(2) not later than April 15, 1998, a report identifying each activity being carried out, as of April 1, 1998, by covered United States forces in the Republic of Bosnia and Herzegovina.

(b) COVERED UNITED STATES FORCES.—For purposes of this section, covered United States forces in the Republic of Bosnia and Herzegovina are United States ground forces in the Republic of Bosnia and Herzegovina that are assigned to the multinational peacekeeping force known as the Stabilization Force (SFOR) or any other multinational peacekeeping force that is the successor to the SFOR.

(c) MATTERS TO BE INCLUDED.—The Secretary shall include in each report under subsection (a), for each activity identified under that subsection, the following:

(1) The number of United States military personnel involved in the performance of that activity.

(2) Whether forces assigned to the SFOR (or successor multinational peacekeeping force) from other nations also participated in that activity.

(3) The justification for using military forces rather than civilian organizations to perform that activity.

(4) In the case of activities that (as determined by the Secretary) are considered to be supporting tasks, as that term is used in paragraph 3 of Article VI of Annex 1-A to the General Framework Agreement for Peace in Bosnia and Herzegovina, the justification for using military forces.

(5) The likelihood that each such activity will have to be carried out by United States military forces after June 30, 1998.

SEC. 1205. PRESIDENTIAL REPORT ON SITUATION IN REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) REQUIREMENT.—Not later than February 1, 1998, the President shall submit to Congress a report on the political and military conditions in the Republic of Bosnia and Herzegovina. The report shall be submitted in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include a discussion of the following:

(1) An assessment of the progress made in implementing the civil, economic, and political aspects of the Dayton Peace Agreement.

(2) An identification of the specific steps taken to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to forces of the member-states of the Western European Union or to a NATO-led force without the participation of United States ground combat forces in the Republic of Bosnia and Herzegovina.

(3) A detailed discussion of the proposed role and involvement of the United States in supporting peacekeeping activities in the Republic of Bosnia and Herzegovina following the withdrawal of United States ground combat forces from the Republic of Bosnia and Herzegovina.

(4) A detailed explanation and timetable for carrying out the commitment to withdraw all United States ground forces from the Republic of Bosnia and Herzegovina by June 30, 1998, including the planned date of commencement and completion of the withdrawal.

(5) The military and political considerations that will affect the decision to carry out such a transition.

(6) Any plan to maintain or expand other Bosnia-related operations (such as the operations designated as Operation Deliberate Guard) if tensions in the Republic of Bosnia and Herzegovina remain sufficient to delay reductions of United States military forces participating in the Stabilization Force and the estimated cost associated with each such operation.

SEC. 1206.[12] DEFINITIONS.

As used in this subtitle:

(1) DAYTON PEACE AGREEMENT.—The term "Dayton Peace Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

(2) IMPLEMENTATION FORCE.—The term "Implementation Force" means the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as "IFOR"), authorized under the Dayton Peace Agreement.

(3) STABILIZATION FORCE.—The term "Stabilization Force" means the NATO-led follow-on force to the Implementation Force in the Republic of Bosnia and Herzegovina and other countries in the region (commonly referred to as "SFOR"), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

[12] 10 U.S.C. 114 note.

(4) FOLLOW-ON MISSION.—The term "follow-on mission" means a mission involving the deployment of ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after June 30, 1998 (other than as described in section 1203(b)).

(5) NATO.—The term "NATO" means the North Atlantic Treaty Organization.

Subtitle B—Export Controls on High Performance Computers [13]

SEC. 1211. EXPORT APPROVALS FOR HIGH PERFORMANCE COMPUTERS.

(a) PRIOR APPROVAL OF EXPORTS AND REEXPORTS.—The President shall require that no digital computer with a composite theoretical performance level of more than 2,000 millions of theoretical operations per second (MTOPS) or with such other composite theoretical performance level as may be established subsequently by the President under subsection (d), may be exported or reexported without a license to a country specified in subsection (b) if the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, or the Director of the Arms Control and Disarmament Agency objects, in writing, to such export or reexport. Any person proposing to export or reexport such a digital computer shall so notify the Secretary of Commerce, who, within 24 hours after receiving the notification, shall transmit the notification to the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency.

(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under subsection (e).

(c) TIME LIMIT.—Written objections under subsection (a) to an export or reexport shall be raised within 10 days after the notification is received under subsection (a). If such a written objection to the export or reexport of a computer is raised, the computer may be exported or reexported only pursuant to a license issued by the Secretary of Commerce under the Export Administration Regulations of the Department of Commerce, without regard to the licensing exceptions otherwise authorized under section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997. If no objection is raised within the 10-day period, the export or reexport is authorized.

(d) ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may establish a new composite theoretical performance level for purposes of subsection (a). Such new level shall not take effect until 180 days after the President submits to the congressional committees designated in section 1215 a report setting forth

[13] 50 U.S.C. app. 2404 note.

the new composite theoretical performance level and the justification for such new level. Each report shall, at a minimum—

(1) address the extent to which high performance computers of a composite theoretical level between the level established in subsection (a) or such level as has been previously adjusted pursuant to this section and the new level, are available from other countries;

(2) address all potential uses of military significance to which high performance computers at the new level could be applied; and

(3) assess the impact of such uses on the national security interests of the United States.

(e) ADJUSTMENT OF COVERED COUNTRIES.—

(1) IN GENERAL.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may add a country to or remove a country from the list of covered countries in subsection (b), except that a country may be removed from the list only in accordance with paragraph (2).

(2) DELETIONS FROM LIST OF COVERED COUNTRIES.—The removal of a country from the list of covered countries under subsection (b) shall not take effect until 120 days after the President submits to the congressional committees designated in section 1215 a report setting forth the justification for the deletion.

(3) EXCLUDED COUNTRIES.—A country may not be removed from the list of covered countries under subsection (b) if—

(A) the country is a "nuclear-weapon state" (as defined by Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons) and the country is not a member of the North Atlantic Treaty Organization; or

(B) the country is not a signatory of the Treaty on the Non-Proliferation of Nuclear Weapons and the country is listed on Annex 2 to the Comprehensive Nuclear Test-Ban Treaty.

(f) CLASSIFICATION.—Each report under subsections (d) and (e) shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1212.[14] REPORT ON EXPORTS OF HIGH PERFORMANCE COMPUTERS.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall provide to the congressional committees specified in section 1215 a report identifying all exports of digital computers with a composite theoretical performance of more than 2,000 millions of theoretical operations per second (MTOPS) to all countries since January 25, 1996. For each export, the report shall identify—

(1) whether an export license was applied for and whether one was granted;

(2) the date of the transfer of the computer;

[14] The President delegated the authority in this section to the Secretary of Commerce in a memorandum of December 19, 1997 (62 F.R. 67547).

(3) the United States manufacturer and exporter of the computer;

(4) the MTOPS level of the computer; and

(5) the recipient country and end user.

(b) ADDITIONAL INFORMATION ON EXPORTS TO CERTAIN COUNTRIES.—In the case of exports to countries specified in subsection (c), the report under subsection (a) shall identify the intended end use for the exported computer and the assessment by the executive branch of whether the end user is a military end user or an end user involved in activities relating to nuclear, chemical, or biological weapons or missile technology. Information provided under this subsection may be submitted in classified form if necessary.

(c) COVERED COUNTRIES.—For purposes of subsection (b), the countries specified in this subsection are—

(1) the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997; and

(2) the countries listed in section 740.7(e) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

SEC. 1213. POST-SHIPMENT VERIFICATION OF EXPORT OF HIGH PERFORMANCE COMPUTERS.

(a) REQUIRED POST-SHIPMENT VERIFICATION.—The Secretary of Commerce shall conduct post-shipment verification of each digital computer with a composite theoretical performance of more than 2,000 millions of theoretical operations per second (MTOPS) that is exported from the United States, on or after the date of the enactment of this Act, to a country specified in subsection (b).

(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under section 1211(e).

(c) ANNUAL REPORT.—The Secretary of Commerce shall submit to the congressional committees specified in section 1215 an annual report on the results of post-shipment verifications conducted under this section during the preceding year. Each such report shall include a list of all such items exported from the United States to such countries during the previous year and, with respect to each such export, the following:

(1) The destination country.

(2) The date of export.

(3) The intended end use and intended end user.

(4) The results of the post-shipment verification.

(d) EXPLANATION WHEN VERIFICATION NOT CONDUCTED.—If a post-shipment verification has not been conducted in accordance with subsection (a) with respect to any such export during the period covered by a report, the Secretary shall include in the report for that period a detailed explanation of the reasons why such a post-shipment verification was not conducted.

SEC. 1214. GAO STUDY ON CERTAIN COMPUTERS; END USER INFORMATION ASSISTANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the congressional committees specified in section

1215 a study of the national security risks relating to the sale of computers with a composite theoretical performance of between 2,000 and 7,000 millions of theoretical operations per second (MTOPS) to end users in countries specified in subsection (c). The study shall also analyze any foreign availability of computers described in the preceding sentence and the impact of such sales on United States exporters.

(b) END USER INFORMATION ASSISTANCE TO EXPORTERS.—The Secretary of Commerce shall establish a procedure by which exporters may seek information on questionable end users in countries specified in subsection (c) who are seeking to obtain computers described in subsection (a).

(c) COVERED COUNTRIES.—For purposes of subsections (a) and (b), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

SEC. 1215. CONGRESSIONAL COMMITTEES.

For purposes of sections 1211(d), 1212(a), 1213(c), and 1214(a) the congressional committees specified in those sections are the following:

(1) The Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

(2) The Committee on International Relations and the Committee on National Security of the House of Representatives.

Subtitle C—Other Matters

SEC. 1221.[15] DEFENSE BURDENSHARING.

(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1998.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, re-

[15] 22 U.S.C. 1928 note.

spect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1998.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide.

(b) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

(5) Reduce (through rescission, impoundment or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (a);

(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on March 1, 1996, and ending on February 28, 1997, and during the period beginning on March 1, 1997, and ending on February 28, 1998; and

(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(d) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1998, in classified and unclassified form.

SEC. 1222. TEMPORARY USE OF GENERAL PURPOSE VEHICLES AND NONLETHAL MILITARY EQUIPMENT UNDER ACQUISITION AND CROSS SERVICING AGREEMENTS.

Section 2350(1) of title 10, United States Code,[16] is amended by striking out "other items" in the second sentence and all that follows through "United States Munitions List" and inserting in lieu thereof "other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated".

SEC. 1223. SENSE OF CONGRESS AND REPORTS REGARDING FINANCIAL COSTS OF ENLARGEMENT OF THE NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—Congress finds the following:

(1) In a report to Congress in February 1997 on the rationale, benefits, costs, and implications of North Atlantic Treaty Organization enlargement the Secretary of Defense estimated that the financial cost to the United States of such enlargement will be modest, totaling between $2,000,000,000 and $2,600,000,000 for the period from 1997 through 2009.

(2) A study by the RAND Corporation published in 1996 calculated that the total financial cost to the United States of such enlargement will be between $5,000,000,000 and $6,000,000,000 over the same period.

(3) A March 1996 report by the Congressional Budget Office on the financial costs of enlarging the North Atlantic Treaty

[16] For text, as amended, see page 406.

Organization alliance estimated the United States share of alliance enlargement costs to be between $4,800,000,000 and $18,900,000,000 through 2010, depending upon political developments in Europe.

(4) An August 1997 report by the General Accounting Office reviewing the financial cost estimates of the Secretary of Defense concluded that North Atlantic Treaty Organization enlargement could entail additional costs beyond those included in the Secretary's estimate and questioned the validity of the Secretary's estimate due to the lack of supporting cost documentation and the inclusion of cost elements not related to NATO enlargement.

(5) The North Atlantic Alliance is scheduled to complete its analysis of the military requirements for the integration of Poland, the Czech Republic, and Hungary into the Alliance in December 1997.

(6) The North Atlantic Alliance is also scheduled to complete in December 1997 its financial cost estimate of the military requirements related to the integration of those nations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the analysis of the North Atlantic Alliance of the military requirements relating to NATO enlargement and of the financial costs to the Alliance of NATO enlargement will be one of the major factors in the consideration by the Senate of the ratification of instruments to approve the admission of new member nations to the Alliance and by Congress for the authorization and appropriation of the funding for the costs associated with such enlargement.

(c) REPORT ASSESSING NATO COST ANALYSIS.—Not later than March 31, 1998, the Secretary of Defense shall submit to Congress a report providing—

(1) an assessment of the analysis by the North Atlantic Alliance of the military requirements related to NATO enlargement and of the estimate of the financial costs to the NATO Alliance for the integration of Poland, the Czech Republic, and Hungary into the Alliance;

(2) a description of the analytical means used to determine such requirements and costs; and

(3) a general assessment of the additional military requirements and costs that would result from a significantly increased threat.

(d) REPORT ON DEPARTMENT OF DEFENSE COSTS.—(1) The Secretary of Defense shall submit to Congress, in conjunction with the submission of the President's budget for fiscal year 1999, a report on Department of Defense costs for NATO enlargement. The report shall include a detailed estimate of such costs for fiscal year 1998 that identifies all appropriations, by budget activity, for the military departments and other elements of the Department of Defense to support NATO enlargement.

(2) The Secretary of Defense shall include in the budget justification materials submitted to Congress by the Secretary in support of the budget of Department of Defense for fiscal year 1999 complete and detailed descriptions and estimates of the amounts provided in that budget for the costs of NATO enlargement.

SEC. 1224. SENSE OF CONGRESS REGARDING ENLARGEMENT OF THE NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization (NATO) met on July 8 and 9, 1997, in Madrid, Spain, and issued invitations to the Czech Republic, Hungary, and Poland to begin accession talks to join NATO.

(2) Congress has expressed its support for the process of NATO enlargement by approving the NATO Enlargement Facilitation Act of 1996 (title VI of the matter enacted in section 101(c) of division A of Public Law 104–208; 22 U.S.C. 1928 note).

(3) The United States has supported the position that the process of enlarging NATO will continue after the first round of invitations in July 1997.

(4) Romania and Slovenia are to be commended for their progress toward political and economic reform and appear to be striving to meet the guidelines for prospective membership in NATO.

(5) In furthering the purpose and objective of NATO in promoting stability and well-being in the North Atlantic area, NATO should invite Romania and Slovenia to accession negotiations to become NATO members as expeditiously as possible upon the satisfaction of all relevant membership criteria and consistent with NATO security objectives.

(b) SENSE OF CONGRESS.—It is the sense of Congress that North Atlantic Treaty Organization should be commended—

(1) for having committed to review the process of enlarging the Organization in 1999; and

(2) for singling out the positive developments toward democracy and rule of law in Romania and Slovenia.

SEC. 1225. SENSE OF CONGRESS RELATING TO LEVEL OF UNITED STATES MILITARY PERSONNEL IN THE EAST ASIA AND PACIFIC REGION.

(a) FINDINGS.—Congress finds the following:

(1) The stability of the Asia-Pacific region is a matter of vital national interest affecting the well-being of all Americans.

(2) The nations of the Pacific Rim collectively represent the United States largest trading partner and are expected to account for almost one-third of the world's economic activity by the start of the next century.

(3) The increased reliance by the United States on trade and Middle East oil sources has reinforced United States security interests in the Southeast Asia shipping lanes through the South China Sea and the key straits of Malacca, Sunda, Lombok, and Makassar.

(4) The South China Sea is an important area for United States Navy ships passing from the Pacific to the Indian Ocean and the Persian Gulf.

(5) Maintaining freedom of navigation in the South China Sea is an important interest of the United States.

(6) The threats of proliferation of weapons of mass destruction, the emerging nationalism amidst long-standing ethnic and national rivalries, and the unresolved territorial disputes

combine to create a political landscape of potential instability and conflict in this region that could jeopardize the interests of the United States and the safety of United States nationals.

(7) A critical component of the East Asia strategy of the United States is maintaining forward deployed forces in Asia to ensure broad regional stability, to help to deter aggression, to lessen the pressure for arms races, and to contribute to the political and economic advances of the region from which the United States benefits.

(8) The forward presence of the United States in Northeast Asia enables the United States to respond to regional contingencies, to protect sea lines of communication, to sustain influence, and to support operations as distant as operations in the Persian Gulf.

(9) The military forces of the United States serve to prevent the political or economic control of the Asia-Pacific region by a rival, hostile power or coalition of such powers, thus preventing any such group from obtaining control over the vast resources, enormous wealth, and advanced technology of the region.

(10) Allies of the United States in the region can base their defense planning on a reliable American security commitment, a reduction of which could stimulate an arms buildup in the region.

(11) The Joint Announcement of the United States-Japan Security Consultative Committee of December 1996, acknowledged that "the forward presence of U.S. forces continues to be an essential element for pursuing our common security objectives".

(12) The United States and Japan signed the United States-Japan Security Declaration in April 1996, in which the United States reaffirmed its commitment to maintain this level of 100,000 United States military personnel in the region.

(13) The United States military presence is recognized by the nations of the region as serving stability and enabling United States engagement.

(14) The nations of East Asia and the Pacific consider the commitment of the forces of the United States to be so vital to their future that they scrutinize actions of the United States for any sign of weakened commitment to the security of the region.

(15) The reduction of forward-based military forces could negatively affect the ability of the United States to contribute to the maintenance of peace and stability of the Asia and Pacific region.

(16) Recognizing that while the United States must consider the overall capabilities of its forces in its decisions to deploy troops, nevertheless any reduction in the number of forward-based troops may reduce the perception of American capability and commitment in the region that cannot be completely offset by modernization of the remaining forces.

(17) During time of crisis, deployment of forces to East Asia, even though such forces were previously removed from the area, might be deemed to be an act of provocation that could

be used as a pretext by a hostile power for armed aggression within the region, and the existence of that possibility might hinder such a deployment.

(18) Proposals to reduce the forward presence of the United States in the East Asia region or subordinate security interests to United States domestic budgetary concerns can erode the perception of the commitment of the United States to its alliances and interests in the region.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should maintain at least approximately 100,000 United States military personnel in the East Asia and Pacific region until such time as there is a peaceful and permanent resolution to the major security and political conflicts in the region.

SEC. 1226. REPORT ON FUTURE MILITARY CAPABILITIES AND STRATEGY OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the pattern of military modernization of the People's Republic of China. The report shall address the probable course of military-technological development in the People's Liberation Army and the development of Chinese security strategy and military strategy, and of military organizations and operational concepts, through 2015.

(b) MATTERS TO BE INCLUDED.—The report shall include analyses and forecasts of the following:

(1) The goals of Chinese security strategy and military strategy.

(2) Trends in Chinese strategy regarding the political goals of the People's Republic of China in the Asia-Pacific region and its political and military presence in other regions of the world, including Central Asia, Southwest Asia, Europe, and Latin America.

(3) Developments in Chinese military doctrine, focusing on (but not limited to) efforts to exploit an emerging Revolution in Military Affairs or to conduct preemptive strikes.

(4) Efforts by the People's Republic of China to enhance its capabilities in the area of nuclear weapons development.

(5) Efforts by the People's Republic of China to develop long-range air-to-air or air defense missiles that would provide the capability to target special support aircraft such as Airborne Warning and Control System (AWACS) aircraft, Joint Surveillance and Target Attack Radar System (JSTARS) aircraft, or other command and control, intelligence, airborne early warning, or electronic warfare aircraft.

(6) Efforts by the People's Republic of China to develop a capability to conduct "information warfare" at the strategic, operational, and tactical levels of war.

(7) Development by the People's Republic of China of capabilities in the area of electronic warfare.

(8) Efforts by the People's Republic of China to develop a capability to establish control of space or to deny access and use of military and commercial space systems in times of crisis or war, including programs to place weapons in space or to develop earth-based weapons capable of attacking space-based systems.

(9) Trends that would lead the People's Republic of China toward the development of advanced intelligence, surveillance, and reconnaissance capabilities, including gaining access to commercial or third-party systems with military significance.

(10) Efforts by the People's Republic of China to develop highly accurate and stealthy ballistic and cruise missiles, including sea-launched cruise missiles, particularly in numbers sufficient to conduct attacks capable of overwhelming projected defense capabilities in the Asia-Pacific region.

(11) Development by the People's Republic of China of command and control networks, particularly those capable of battle management of long-range precision strikes.

(12) Efforts by the People's Republic of China in the area of telecommunications, including common channel signaling and synchronous digital hierarchy technologies.

(13) Development by People's Republic of China of advanced aerospace technologies with military applications (including gas turbine "hot section" technologies).

(14) Programs of the People's Republic of China involving unmanned aerial vehicles, particularly those with extended ranges or loitering times or potential strike capabilities.

(15) Exploitation by the People's Republic of China for military purposes of the Global Positioning System or other similar systems (including commercial land surveillance satellites), with such analysis and forecasts focusing particularly on indications of an attempt to increase the accuracy of weapons or situational awareness of operating forces.

(16) Development by the People's Republic of China of capabilities for denial of sea control, including such systems as advanced sea mines, improved submarine capabilities, or land-based sea-denial systems.

(17) Efforts by the People's Republic of China to develop its anti-submarine warfare capabilities.

(18) Continued development by the People's Republic of China of follow-on forces, particularly forces capable of rapid air or amphibious assault.

(19) Efforts by the People's Republic of China to enhance its capabilities in such additional areas of strategic concern as the Secretary identifies.

(c) ANALYSIS OF IMPLICATIONS OF SALES OF PRODUCTS AND TECHNOLOGIES TO ENTITIES IN CHINA.—The report under subsection (a) shall include, with respect to each area for analyses and forecasts specified in subsection (b)—

(1) an assessment of the military effects of sales of United States and foreign products and technologies to entities in the People's Republic of China; and

(2) the potential threat of developments related to such effects to United States strategic interests.

(d) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than March 15, 1998.

SEC. 1227. SENSE OF CONGRESS ON NEED FOR RUSSIAN OPENNESS ON THE YAMANTAU MOUNTAIN PROJECT.

(a) FINDINGS.—Congress finds as follows:

(1) The United States and Russia have been working since the end of the Cold War to achieve a strategic relationship based on cooperation and openness between the two nations.

(2) This effort to establish a new strategic relationship between the two nations has resulted in the conclusion or agreement in principle on a number of far-reaching agreements, including START I, II, and III, a revision in the Conventional Forces in Europe Treaty, and a series of other agreements (such as the Comprehensive Test Ban Treaty and the Chemical Weapons Convention), designed to further reduce bilateral threats and limit the proliferation of weapons of mass destruction.

(3) These far-reaching agreements were based on the understanding between the United States and Russia that there would be a good faith effort on both sides to comply with the letter and spirit of the agreements.

(4) Reports indicate that Russia has been pursuing construction of a massive underground facility of unknown purpose at Yamantau Mountain and the city of Mezhgorye (formerly the settlements of Beloretsk–15 and Beloretsk–16) that is designed to survive a nuclear war and appears to exceed reasonable defense requirements.

(5) The Yamantau Mountain project does not appear to be consistent with the lowering of strategic threats, openness, and cooperation that is the basis of the post-Cold War strategic partnership between the United States and Russia.

(6) The United States has allowed senior Russian military and government officials to have access to key strategic facilities of the United States by providing tours of the North American Air Defense (NORAD) command at Cheyenne Mountain and the United States Strategic Command (STRATCOM) headquarters in Omaha, Nebraska, among other sites, and by providing extensive briefings on the operations of those facilities.

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

(1) should provide to the United States Government a written explanation with sufficient detail (including drawings and diagrams) of the purpose and operational concept of the completed and planned facilities at Yamantau Mountain to support a high confidence judgment by the United States that the design of the Yamantau facility is consistent with official Russian government explanations; and

(2) should allow a United States delegation, to include officials of the executive branch and Members of Congress, to have access to the Yamantau Mountain project and buildings and facilities surrounding the project.

SEC. 1228. ASSESSMENT OF THE CUBAN THREAT TO UNITED STATES NATIONAL SECURITY.

(a) FINDINGS.—Congress makes the following findings:

(1) Cuba has maintained a hostile policy in its relations with the United States for over 35 years.

(2) The United States, as a sovereign nation, must be able to respond to any Cuban provocation and defend the people and territory of the United States against any attack.

(3) In 1994, the Government of Cuba callously encouraged a massive exodus of Cubans, by boat and raft, toward the United States during which countless numbers of those Cubans lost their lives on the high seas.

(4) The humanitarian response of the United States to rescue, shelter, and provide emergency care to those Cubans, together with the actions taken to absorb some 30,000 of those Cubans into the United States, required significant efforts and the expenditure of hundreds of millions of dollars for the costs incurred by the United States and State and local governments in connection with those efforts.

(5) On February 24, 1996, Cuban MiG aircraft attacked and destroyed, in international airspace, two unarmed civilian aircraft flying from the United States, and the four persons in those unarmed civilian aircraft were killed.

(6) Since that attack, the Cuban government has issued no apology for the attack, nor has it indicated any intention to conform its conduct to international law that is applicable to civilian aircraft operating in international airspace.

(b) REVIEW AND ASSESSMENT.—The Secretary of Defense shall carry out a comprehensive review and assessment of—

(1) Cuban military capabilities; and

(2) the threats to the national security of the United States that may be posed by Cuba, including—

(A) such unconventional threats as (i) encouragement of massive and dangerous migration, and (ii) attacks on citizens and residents of the United States while they are engaged in peaceful protest in international waters or airspace;

(B) the potential for development and delivery of chemical or biological weapons; and

(C) the potential for internal strife in Cuba that could involve citizens or residents of the United States or the Armed Forces of the United States.

(c) REPORT.—Not later than March 31, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the review and assessment. The report shall include the following:

(1) The Secretary's assessment of the capabilities and threats referred to in subsection (b), including each of the threats described in paragraph (2) of that subsection.

(2) A discussion of the results of the review and assessment, including an assessment of the contingency plans developed by the Secretary to counter any threat posed by Cuba to the United States.

(d) CONSULTATION ON REVIEW AND ASSESSMENT.—In performing the review and assessment and in preparing the report, the Secretary of Defense shall consult with the Chairman of the Joint Chiefs of Staff, the commander of the United States Southern Command, and the heads of other appropriate departments and agencies of the United States.

SEC. 1229. REPORT ON HELSINKI JOINT STATEMENT.

(a) REQUIREMENT.—Not later than March 31, 1998, the President shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Helsinki Joint Statement on future reductions in nuclear forces. The report shall address the United States approach (including verification implications) to implementing the Helsinki Joint Statement, in particular, as that Statement relates to the following:

(1) Lower aggregate levels of strategic nuclear warheads.

(2) Measures relating to the transparency of strategic nuclear warhead inventories and the destruction of strategic nuclear warheads.

(3) Deactivation of strategic nuclear delivery vehicles.

(4) Measures relating to nuclear long-range sea-launched cruise missiles and tactical nuclear systems.

(5) Issues related to transparency in nuclear materials.

(b) DEFINITION.—For purposes of this section, the term "Helsinki Joint Statement" means the agreements between the President of the United States and the President of the Russian Federation as contained in the Joint Statement on Parameters on Future Reductions in Nuclear Forces issued at Helsinki in March 1997.

SEC. 1230. COMMENDATION OF MEXICO ON FREE AND FAIR ELECTIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) On July 6, 1997, elections were conducted in Mexico in order to fill 500 seats in the Chamber of Deputies, 32 seats in the 128 seat Senate, the office of the Mayor of Mexico City, and local elections in a number of Mexican States.

(2) For the first time, the federal elections were organized by the Federal Electoral Institute, an autonomous and independent organization established under the Mexican Constitution.

(3) More than 52,000,000 Mexican citizens registered to vote.

(4) Eight political parties registered to participate in those elections, including the Institutional Revolutionary Party (PRI), the National Action Party (PAN), and the Democratic Revolutionary Party (PRD).

(5) Since 1993, Mexican citizens have had the exclusive right to participate as observers in activities related to the preparation and the conduct of elections.

(6) Since 1994, Mexican law has permitted international observers to be a part of the election process.

(7) With 84 percent of the ballots counted, PRI candidates received 38 percent of the vote for seats in the Chamber of Deputies, while PRD and PAN candidates received 52 percent of the combined vote.

(8) PRD candidate Cuauhtemoc Cardenas Solorzano has become the first elected Mayor of Mexico City, a post previously appointed by the President.

(9) PAN members will now serve as governors in seven of Mexico's 31 States.

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

(1) the recent elections in Mexico were conducted in a free, fair, and impartial manner;

(2) the will of the Mexican people, as expressed through the ballot box, has been respected by President Ernesto Zedillo and officials throughout his administration; and

(3) President Zedillo, the Mexican Government, the Federal Electoral Institute of Mexico, the political parties and candidates, and most importantly the citizens of Mexico should all be congratulated for their support and participation in these very historic elections.

SEC. 1231. SENSE OF CONGRESS REGARDING CAMBODIA.

(a) FINDINGS.—Congress makes the following findings:

(1) During the 1970s and 1980s, Cambodia was wracked by political conflict, war, and violence, including genocide perpetrated by the Khmer Rouge from 1975 to 1979.

(2) The 1991 Paris Agreements on a Comprehensive Political Settlement of the Cambodia Conflict set the stage for a process of political accommodation and national reconciliation among Cambodia's warring parties.

(3) The international community engaged in a massive effort involving more than $2,000,000,000 to ensure peace, democracy, and prosperity in Cambodia following the Paris Accords.

(4) The Cambodian people clearly demonstrated their support for democracy when 90 percent of eligible Cambodian voters participated in United Nations-sponsored elections in 1993.

(5) Since the 1993 elections, Cambodia has made economic progress, as shown by the recent decision of the Association of Southeast Asian Nations (ASEAN) to extend membership in the Association to Cambodia.

(6) Tensions within the ruling Cambodian coalition have erupted into violence.

(7) In March 1997, 19 Cambodians were killed and more than 100 were wounded in a grenade attack on political demonstrators supportive of the Funcinpec and the Khmer Nation Party.

(8) During June 1997, fighting erupted in Phnom Penh between forces loyal to First Prime Minister Prince Ranariddh and Second Prime Minister Hun Sen.

(9) On July 5, 1997, Second Prime Minister Hun Sen deposed the First Prime Minister in a violent coup d'etat.

(10) Forces loyal to Hun Sen have executed former Interior Minister Ho Sok and approximately 40 other political opponents loyal to Prince Ranariddh.

(11) Democracy and stability in Cambodia are threatened by the continued use of violence and other extralegal means to resolve political tensions.

(12) In response to the July 1997 coup in Cambodia referred to in paragraph (9)—

(A) the President has suspended all direct assistance to the Cambodian Government; and

(B) the Association of Southeast Asian Nations (ASEAN) has decided to delay indefinitely admission of Cambodia to membership in the Association.

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

(1) the parties in Cambodia should immediately cease the use of violence;

(2) the United States should take all necessary steps to ensure the safety of United States citizens in Cambodia;

(3) the United States should call an emergency meeting of the United Nations Security Council to consider all options to restore peace and democratic governance in Cambodia;

(4) the United States and the Association of Southeast Asian Nations should work together to take immediate steps to restore democracy and the rule of law in Cambodia;

(5) United States assistance to the Government of Cambodia should remain suspended until violence ends, the democratically elected Government is restored to power, and the necessary steps have been taken to ensure that the elections scheduled for 1998 take place; and

(6) the United States should take all necessary steps to encourage other donor nations to suspend assistance as part of a multilateral effort.

SEC. 1232. CONGRATULATING GOVERNOR CHRISTOPHER PATTEN OF HONG KONG.

(a) FINDINGS.—Congress makes the following findings:

(1) His Excellency Christopher F. Patten, the former Governor of Hong Kong, was the twenty-eighth and last British Governor of the dependent territory of Hong Kong before that territory reverted back to the People's Republic of China on July 1, 1997.

(2) Christopher Patten was a superb administrator and an inspiration to the people whom he governed.

(3) During Christopher Patten's five years as Governor of Hong Kong, the economy flourished under his stewardship, growing by more than 30 percent in real terms.

(4) Christopher Patten presided over a capable and honest civil service.

(5) During the tenure of Christopher Patten as Governor of Hong Kong, common crime declined and the political climate was positive and stable.

(6) The legacy of Christopher Patten to Hong Kong is the expansion of democracy in Hong Kong's legislative council and a tireless devotion to the rights, freedoms, and welfare of the people of Hong Kong.

(7) Christopher Patten fulfilled the commitment of the British Government to "put in place a solidly based democratic administration" in Hong Kong before July 1, 1997.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that Christopher F. Patten, the last British Governor of the dependent territory of Hong Kong—

(1) served his country with great honor and distinction in that capacity; and

(2) deserves special thanks and recognition from the United States for his tireless efforts to develop and nurture democracy in Hong Kong.

TITLE XIII—ARMS CONTROL AND RELATED MATTERS [17]

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TITLE XIV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION [18]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

* * * * * * *

Subtitle C—Program Authorizations, Restrictions, and Limitations

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SEC. 3133. INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1998 may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) Activities conducted between the United States and the United Kingdom.

(2) Activities conducted between the United States and France.

(3) Activities carried out under title III of this Act relating to cooperative threat reduction with states of the former Soviet Union.

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Subtitle D—Other Matters

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SEC. 3156.[19] STOCKPILE STEWARDSHIP PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Eliminating the threat posed by nuclear weapons to the United States is an important national security goal.

(2) As long as nuclear threats remain, the nuclear deterrent of the United States must be effective and reliable.

(3) A safe, secure, effective, and reliable United States nuclear stockpile is central to the current nuclear deterrence strategy of the United States.

(4) The Secretary of Energy has undertaken a stockpile stewardship and management program to ensure the safety, security, effectiveness, and reliability of the nuclear weapons stock-

[17] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.
[18] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.
[19] 42 U.S.C. 2121 note.

pile of the United States, consistent with all United States treaty requirements and the requirements of the nuclear deterrence strategy of the United States.

(5) It is the policy of the current administration that new nuclear warhead designs are not required to effectively implement the nuclear deterrence strategy of the United States.

(b) POLICY.—It is the policy of the United States that—

(1) activities of the stockpile stewardship program shall be directed toward ensuring that the United States possesses a safe, secure, effective, and reliable nuclear stockpile, consistent with the national security requirements of the United States; and

(2) stockpile stewardship activities of the United States shall be conducted in conformity with the terms of the Treaty on the Non-Proliferation of Nuclear Weapons and the Comprehensive Test Ban Treaty signed by the President on September 24, 1996, when and if that treaty enters into force.

SEC. 3157.[20] REPORTS ON ADVANCED SUPERCOMPUTER SALES TO CERTAIN FOREIGN NATIONS.

(a) REPORTS.—The Secretary of Energy shall require that any company that is a participant in the Accelerated Strategic Computing Initiative (ASCI) program of the Department of Energy report to the Secretary and to the Secretary of Defense each sale by that company to a country designated as a Tier III country of a computer capable of operating at a speed in excess of 2,000 millions theoretical operations per second (MTOPS). The report shall include a description of the following with respect to each such sale:

(1) The anticipated end-use of the computer sold.

(2) The software included with the computer.

(3) Any arrangement under the terms of the sale regarding—

(A) upgrading the computer;

(B) servicing the computer; or

(C) furnishing spare parts for the computer.

(b) COVERED COUNTRIES.—For purposes of this section, the countries designated as Tier III countries are the countries listed as "computer tier 3" eligible countries in part 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997 (or any successor list).

(c) QUARTERLY SUBMISSION OF REPORTS.—The Secretary of Energy shall require that reports under subsection (a) be submitted quarterly.

(d) ANNUAL REPORT.—The Secretary of Energy shall submit to Congress an annual report containing all information received under subsection (a) during the preceding year. The first annual report shall be submitted not later than July 1, 1998.

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SEC. 3163. MODIFICATION OF AUTHORITY ON COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE.

(a) COMMENCEMENT OF ACTIVITIES.—Subsection (b)(1) of section 3162 of the National Defense Authorization Act for Fiscal Year

[20] 50 U.S.C. app. 2404 note.

1997 (Public Law 104–201; 110 Stat. 2844; 42 U.S.C. 2121 note) is amended, effective January 1, 1998—[21]

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TITLE XXXV—PANAMA CANAL COMMISSION [22]

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[21] For amended text, see page 517.

[22] Amendments to the Panama Canal Act have been incorporated into that Act; see *Legislation on Foreign Relations Through 1997*, vol. II, sec. G.

c. Department of Defense Appropriations Act, 1998

Partial text of Public Law 105–56 [H.R. 2266], 111 Stat. 1203, approved October 8, 1997

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE II

OPERATION AND MAINTENANCE

* * * * * * *

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

For expenses directly relating to Overseas Contingency Operations by United States military forces; $1,884,000,000: *Provided,* That the Secretary of Defense may transfer these funds only to operation and maintenance accounts within this title, and working capital funds: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

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OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code); $47,130,000, to remain available until September 30, 1999.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and

weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; $382,200,000, to remain available until September 30, 2000: *Provided,* That of the amounts provided under this heading, $35,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East: *Provided further,* That of the amounts provided under this heading, $5,000,000 shall be available only for the Arctic Military Environmental Cooperation Program.

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TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

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CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $600,700,000, of which $462,200,000 shall be for Operation and maintenance, $72,200,000 shall be for Procurement to remain available until September 30, 2000, and $66,300,000 shall be for Research, development, test and evaluation to remain available until September 30, 1999: *Provided,* That of the funds available under this heading, $1,000,000 shall be available until expended each year only for a Johnston Atoll off-island leave program: *Provided further,* That the Secretaries concerned shall, pursuant to uniform regulations, prescribe travel and transportation allowances for travel by participants in the off-island leave program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $712,882,000: *Provided,* That the funds appropriated under this head shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

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TITLE VIII

GENERAL PROVISIONS

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SEC. 8002.[1] During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided,* That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further,* That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further,* That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

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SEC. 8009.[2] Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

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SEC. 8019.[3] Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value

[1] 10 U.S.C. 1584 note.
[2] 10 U.S.C. 401 note.
[3] 10 U.S.C. 2687 note.

amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 1999 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

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SEC. 8033. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

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SEC. 8040.[4] (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1998. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2),

[4] 41 U.S.C. 10b–2.

the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

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SEC. 8049. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8050. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters: *Provided*, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

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SEC. 8066. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

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SEC. 8071. (a)[5] None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b)[6] None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

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SEC. 8079. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

[5] 10 U.S.C. 374 note.
[6] 50 U.S.C. 403 note.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SEC. 8080. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8081. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense shall issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided,* That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: *Provided further,* That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further,* That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services and Foreign Relations of the Senate and the Committees on Appropriations, National Security and International Relations in the House of Representatives on the implementation of this program: *Provided further,* That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative

expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10.

SEC. 8082. None of the funds available to the Department of Defense shall be obligated or expended to make a financial contribution to the United Nations for the cost of an United Nations peacekeeping activity (whether pursuant to assessment or a voluntary contribution) or for payment of any United States arrearage to the United Nations.

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SEC. 8085. None of the funds provided in title II of this Act for "Former Soviet Union Threat Reduction" may be obligated or expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

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SEC. 8094. The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided,* That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

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SEC. 8115. It is the sense of the Congress that all member nations of the North Atlantic Treaty Organization (NATO) should contribute their proportionate share to pay for the costs of the Partnership for Peace program and for any future costs attributable to the expansion of NATO.

SEC. 8116.[7] The budget of the President for fiscal year 1999 submitted to Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as "subactivities") in the operation and maintenance accounts of the military departments and other appropriation accounts, as may be necessary, to separately identify all costs incurred by the Department of Defense to support the expansion of the North Atlantic Treaty Organization. The budget justification materials submitted to Congress in support of the budget of the Department of Defense for fiscal year 1999, and subsequent fiscal years, shall provide complete, detailed estimates for the incremental costs of such expansion.

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SEC. 8118. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

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[7] 10 U.S.C. 221 note.

SEC. 8122. (a) FINDINGS.—(1) The North Atlantic Treaty Organization, at the Madrid summit, decided to admit three new members, the Czech Republic, Poland and Hungary.

(2) The President, on behalf of the United States endorsed and advocated the expansion of the North Atlantic Treaty Organization to include three additional members.

(3) The Senate will consider the ratification of instruments to approve the admissions of new members to the North Atlantic Treaty Organization.

(4) The United States has contributed more than $20,000,000,000 since 1952 for infrastructure and support of the Alliance.

(5) In appropriations Acts considered by the Congress for fiscal year 1998, $449,000,000 has been requested by the President for expenditures in direct support of United States participation in the Alliance.

(6) In appropriations Acts considered by the Congress for fiscal year 1998, $9,983,300,000 has been requested by the President in support of United States military expenditures in North Atlantic Treaty Organization countries.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall identify and report to the congressional defense committees not later than October 1, 1997—

(1) the amounts necessary, by appropriation account, for all anticipated costs to the United States for the admission of the Czech Republic, Poland and Hungary to the North Atlantic Treaty Organization for the fiscal years 1998, 1999, 2000, 2001 and 2002; and

(2) any new commitments or obligations entered into or assumed by the United States in association with the admission of new members to the Alliance, to include the deployment of United States military personnel, the provision of defense articles or equipment, training activities and the modification and construction of military facilities.

SEC. 8123. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of warships, ball and roller bearings, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Har-

monized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, and 9404.

SEC. 8124. It is the sense of Congress that should the Senate ratify NATO enlargement, that the proportional cost of the United States share of the NATO common budget should not increase, and that if any NATO member does not pay its share, the United States shall not pay either.

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SEC. 8132. None of the funds in this Act may be made available for the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina after June 30, 1998, unless the President, after consultation with the bipartisan leadership of the Senate and the House of Representatives, transmits to the Congress not later than May 15, 1998 a certification that the continued presence of United States Armed Forces is required in order to meet the national security interests of the United States: *Provided*, That such certification shall specify the following aspects of any deployment beyond June 30, 1998—

(1) the reasons why such deployment is in the national interest;

(2) the number of United States military personnel to be deployed in and around the Republic of Bosnia and Herzegovina and the former Yugoslavia;

(3) the expected duration of any such deployment;

(4) the mission and objectives of United States military forces deployed in and around the Republic of Bosnia and Herzegovina and the former Yugoslavia;

(5) the exit strategy for United States forces engaged in such deployment;

(6) the costs associated with any deployment beyond June 30, 1998; and

(7) the impact of such deployment on the morale, retention, and effectiveness of United States forces:

Provided further, That concurrent with said certification, the President shall submit a supplemental appropriations request for such amounts as are necessary for any continued deployment beyond June 30, 1998: *Provided further*, That nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

This Act may be cited as the "Department of Defense Appropriations Act, 1998".

d. 1997 Emergency Supplemental Appropriations Act for Recovery From Natural Disaster, and for Overseas Peacekeeping Efforts, Including Those in Bosnia

Partial text of Public Law 105–18 [H.R. 1871], 111 Stat. 158, approved June 12, 1997

AN ACT Making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997, and for other purposes.

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997, and for other purposes, namely:

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE

CHAPTER 1

DEPARTMENT OF DEFENSE—MILITARY

* * * * * * *

OPERATION AND MAINTENANCE

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

For an additional amount for "Overseas Contingency Operations Transfer Fund", $1,430,100,000: *Provided,* That the Secretary of Defense may transfer these funds only to Department of Defense operation and maintenance accounts: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

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GENERAL PROVISIONS, CHAPTER 1

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SEC. 103. In addition to the amounts appropriated in title II of the Department of Defense Appropriations Act, 1997 (as contained in section 101(b) of Public Law 104–208), under the heading "Oper-

ation and Maintenance, Defense-Wide", $10,000,000 is hereby appropriated and made available only for force protection and counter-terrorism initiatives.

SEC. 104. In addition to the amounts provided in Public Law 104–208, $25,800,000 is appropriated under the heading "Overseas Humanitarian, Disaster and Civic Aid": Provided, That from the funds available under that heading, the Secretary of Defense shall make a grant in the amount of $25,800,000 to the American Red Cross for Armed Forces emergency services.

SEC. 105. REPORT ON COST AND SOURCE OF FUNDS FOR MILITARY ACTIVITIES RELATING TO BOSNIA.—(a) Not later than 60 days after enactment of this Act, the President shall submit to Congress the report described in subsection (b).

(b) REPORT ELEMENTS.—The report referred to in subsection (a) shall include the following:

(1) A detailed description of the estimated cumulative cost of all United States activities relating to Bosnia after December 1, 1995, including—

(A) the cost of all deployments, training activities, and mobilization and other preparatory activities of the Armed Forces; and

(B) the cost of all other activities relating to United States policy toward Bosnia, including humanitarian assistance, reconstruction assistance, aid and other financial assistance, the rescheduling or forgiveness of bilateral or multilateral aid, in-kind contributions, and any other activities of the United States Government.

(2) A detailed accounting of the source of funds obligated or expended to meet the costs described in paragraph (1), including—

(A) in the case of expenditures of funds of Department of Defense, a breakdown of such expenditures by military service or defense agency, line item, and program; and

(B) in the case of expenditures of funds of other departments and agencies of the United States, a breakdown of such expenditures by department or agency and by program.

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CHAPTER 2

RESCISSIONS

DEPARTMENT OF DEFENSE—MILITARY

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FORMER SOVIET UNION THREAT REDUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 104–208, $2,000,000 are rescinded.[1]

[1] Public Law 104–208 provided $327,900,000 under this heading.

* * * * * * *

OTHER DEPARTMENT OF DEFENSE PROGRAMS

* * * * * * *

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–335, $456,000 are rescinded.

Of the funds made available under this heading in Public Law 104–61, $20,652,000 are rescinded.

Of the funds made available under this heading in Public Law 104–208, $27,000,000 are rescinded.[2]

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

Of the funds made available under this heading in Public Law 104–208, $2,000,000 are rescinded.[3]

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CHAPTER 3

GENERAL PROVISIONS—THIS TITLE

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SEC. 302. Notwithstanding section 3612(a) of title 22, United States Code, the incumbent may continue to serve as the Secretary of Defense designee on the Board of the Panama Canal Commission if he retires as an officer of the Department of Defense, until and unless the Secretary of Defense designates another person to serve in this position.

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TITLE II—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RECOVERY FROM NATURAL DISASTERS

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CHAPTER 4

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

SEC. 4001. The President may waive the minimum funding requirements contained in subsection (k) under the heading ''Assistance for the New Independent States of the Former Soviet Union'' contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as included in Public Law 104–208, for activities for the government of Ukraine funded in

[2] Public Law 103–335 provided $575,449,000 under this heading.Public Law 104–61 provided $ 672,250,000; and Public Law 104–208 provided $758,447,000.

[3] Public Law 104–208 provided $807,800,000 under this heading.

that subsection, if he determines and so reports to the Committees on Appropriations that the government of Ukraine:[4]

(1) has not made progress toward implementation of comprehensive economic reform;

(2) is not taking steps to ensure that United States businesses and individuals are able to operate according to generally accepted business principles; or

(3) is not taking steps to cease the illegal dumping of steel plate.

* * * * * * *

[4] Public Law 104–208, as amended, provided the following:

"ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

* * * * * * *

"(k) Of the funds made available under this heading, up to $225,000,000 shall be made available for Ukraine, of which funds not less than $25,000,000 shall be made available to carry out United States decommissioning obligations regarding the Chornobyl *[sic]* plant made in the Memorandum of Understanding between the Government of Ukraine and the G–7 Group: *Provided,* That not less than $35,000,000 shall be made available for agricultural projects, including those undertaken through the Food Systems Restructuring Program, which leverage private sector resources with United States Government assistance: *Provided further,* That $5,000,000 shall be available for a small business incubator project: *Provided further,* That $5,000,000 shall be made available for screening and treatment of childhood mental and physical illnesses related to Chornobyl radiation: *Provided further,* That $5,000,000 shall be available only for a land and resource management institute to identify nuclear contamination at Chornobyl: *Provided further,* That $15,000,000 shall be available for the legal restructuring necessary to support a decentralized market-oriented economic system, including enactment of necessary substantive commercial law, implementation of reforms necessary to establish an independent judiciary and bar, legal education for judges, attorneys, and law students, and education of the public designed to promote understanding of a law-based economy.".

e. National Defense Authorization Act for Fiscal Year 1997

Partial text of Public Law 104–201 [H.R. 3230], 110 Stat. 2422, approved September 23, 1996; amended by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1997".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

* * * * * * *

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

* * * * * * *

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1997 the amount of $759,847,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

* * * * * * *

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

* * * * * * *

SEC. 229. CERTIFICATION OF CAPABILITY OF UNITED STATES TO PREVENT ILLEGAL IMPORTATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS.

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification in writing stating specifically whether or not the United States has the capability (as of the date of the certification) to prevent the illegal importation of nuclear, biological, and chemical weapons into the United States and its possessions.

* * * * * * *

SEC. 231. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), $186,200,000 shall be available for the Counterproliferation Support Program, of which $75,000,000 shall be available for a tactical antisatellite technologies program.

(b) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1997 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed $50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(c) LIMITATION ON USE OF FUNDS FOR TECHNICAL STUDIES AND ANALYSES PENDING RELEASE OF FUNDS.—(1) None of the funds authorized to be appropriated to the Department of Defense for fiscal year 1997 for program element 605104D, relating to technical studies and analyses, may be obligated or expended until the funds referred to in paragraph (2) have been released to the program manager of the tactical anti-satellite technology program for implementation of that program.

(2) The funds for release referred to in paragraph (1) are as follows:

(A) Funds authorized to be appropriated by section 218(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 222) that are available for the program referred to in paragraph (1).

(B) Funds authorized to be appropriated to the Department for fiscal year 1997 by this Act for the Counterproliferation Support Program that are to be made available for that program.

SUBTITLE C—BALLISTIC MISSILE DEFENSE PROGRAMS

SEC. 241. FUNDING FOR BALLISTIC MISSILE DEFENSE PROGRAMS FOR FISCAL YEAR 1997.

(a) PROGRAM AMOUNTS.—Of the amount appropriated pursuant to section 201(4), the following amounts may be obligated for the following systems managed by the Ballistic Missile Defense Organization:

(1) For the Theater High Altitude Area Defense (THAAD) System, $621,798,000.

(2) For the Navy Upper Tier (Theater Wide) system, $304,171,000.

(3) For the National Missile Defense System, $858,437,000.

(4) For the Corps Surface-to-Air Missile (SAM)/Medium Extended Air Defense System (MEADS), $56,200,000.

(b) LIMITATION.—None of the funds appropriated or otherwise made available for the Department of Defense pursuant to this or any other Act may be obligated or expended by the Office of the Under Secretary of Defense for Acquisition and Technology for official representation activities, or related activities, until the Secretary of Defense certifies to Congress that—

(1) the Secretary has made available for obligation the funds provided under subsection (a) for the purposes specified in that subsection and in the amounts appropriated pursuant to that subsection; and

(2) the Secretary has included the Navy Upper Tier theater missile defense system in the theater missile defense core program.

(c) LIMITATIONS.—Not more than $15,000,000 of the amount available for the Corps SAM/MEADS program under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees the following:

(1) An initial program estimate for the Corps SAM/MEADS program, including a tentative schedule of major milestones

and an estimate of the total program cost through initial operational capability.

(2) A report on the options associated with the use of existing systems, technologies, and program management mechanisms to satisfy the requirement for the Corps surface-to-air missile, including an assessment of cost and schedule implications in relation to the program estimate submitted under paragraph (1).

(3) A certification that there will be no increase in overall United States funding commitment to the project definition and validation phase of the Corps SAM/MEADS program as a result of the withdrawal of France from participation in the program.

SEC. 242. CERTIFICATION OF CAPABILITY OF UNITED STATES TO DEFEND AGAINST SINGLE BALLISTIC MISSILE.

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification in writing stating specifically whether or not the United States has the military capability (as of the time of the certification) to intercept and destroy a single ballistic missile launched at the territory of the United States.

SEC. 243. REPORT ON BALLISTIC MISSILE DEFENSE AND PROLIFERATION.

The Secretary of Defense shall submit to Congress a report on ballistic missile defense and the proliferation of weapons of mass destruction, including nuclear, chemical, and biological weapons, and the missiles that can be used to deliver them. The report shall be submitted not later than December 31, 1996, and shall include the following:

(1) An assessment of how United States theater missile defenses contribute to United States efforts to prevent proliferation, including an evaluation of the specific effect United States theater missile defense systems can have on dissuading other states from acquiring ballistic missiles.

(2) An assessment of how United States national missile defenses contribute to United States efforts to prevent proliferation.

(3) An assessment of the effect of the lack of national missile defenses on the desire of other states to acquire ballistic missiles and an evaluation of the types of missiles other states might seek to acquire as a result.

(4) A detailed review of the linkages between missile defenses (both theater and national) and each of the categories of counterproliferation activities identified by the Secretary of Defense as part of the Defense Counterproliferation Initiative announced by the Secretary in December 1993.

(5) A description of how theater and national ballistic missile defenses can augment the effectiveness of other counterproliferation tools.

SEC. 244. REVISION TO ANNUAL REPORT ON BALLISTIC MISSILE DEFENSE PROGRAM.

Section 224(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2431 note) is amended—* * *[1]

SEC. 245. REPORT ON AIR FORCE NATIONAL MISSILE DEFENSE PLAN.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the following matters regarding the National Missile Defense Plan of the Air Force:

(1) The cost and operational effectiveness of a system that could be developed pursuant to that plan.

(2) The arms control implications of such a system.

(3) The growth potential of such a system to meet future threats.

(4) The recommendations of the Secretary for improvements to that plan.

SEC. 246. CAPABILITY OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall ensure that any National Missile Defense system deployed by the United States is capable of defeating the threat posed by the Taepo Dong II missile of North Korea.

SEC. 247. ACTIONS TO LIMIT ADVERSE EFFECTS ON PRIVATE SECTOR EMPLOYMENT OF ESTABLISHMENT OF NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE.

The Secretary of Defense shall take such actions as are necessary in connection with the establishment of the National Missile Defense Joint Program Office within the Ballistic Missile Defense Organization to ensure that the establishment of that office does not make it necessary for a Federal Government contractor to reduce significantly the number of persons employed by that contractor for supporting the national missile defense development program at any particular location outside the National Capital Region (as defined in section 2674(f)(2) of title 10, United States Code).

SEC. 248. ABM TREATY DEFINED.

For purposes of this subtitle, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SUBTITLE D—OTHER MATTERS

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SEC. 268. DESALTING TECHNOLOGIES.

(a) FINDINGS.—Congress makes the following findings:

(1) Access to scarce fresh water is likely to be a cause of future military conflicts in the Middle East and has a direct impact on stability and security in the region.

(2) The Middle East is an area of vital and strategic importance to the United States.

[1] For amended text, see page 758.

(3) The United States has played a military role in the Middle East, most recently in the Persian Gulf War, and may likely be called upon again to deter aggression in the region.

(4) United States troops have used desalting technologies to guarantee the availability of fresh water in past deployments in the Middle East.

(5) Adequate, efficient, and cheap access to high-quality fresh water will be vital to maintaining the readiness and sustainability of troops of both the United States and its allies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, as improved access to fresh water will be an important factor in helping prevent future conflicts in the Middle East, the United States should, in cooperation with its allies, promote and invest in technologies to reduce the costs of converting saline water into fresh water.

(c) FUNDING FOR RESEARCH AND DEVELOPMENT.—Of the amounts authorized to be appropriated by this title, the Secretary shall place greater emphasis on making funds available for research and development into efficient and economical processes and methods for converting saline water into fresh water.

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TITLE III—OPERATION AND MAINTENANCE

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SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * *

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $54,544,000.

(19) For Drug Interdiction and Counter-drug Activities, Defense-wide, $796,524,000.

* * *

(22) For Cooperative Threat Reduction programs, $364,900,000.

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SEC. 306. AVAILABILITY OF ADDITIONAL FUNDS FOR ANTITERRORISM ACTIVITIES.

Of the amount authorized to be appropriated pursuant to section 301 for operation and maintenance, $14,000,000 shall be available to the Secretary of Defense for activities designed to meet the antiterrorism responsibilities of the Department of Defense, including activities related to intelligence support, physical security measures, and education and training regarding antiterrorism. The

amount made available by this section is in addition to amounts otherwise made available by this Act for antiterrorism activities.

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TITLE X—GENERAL PROVISIONS

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SUBTITLE C—COUNTER-DRUG ACTIVITIES

SEC. 1031.[2] AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.

(a) AUTHORITY TO PROVIDE ADDITIONAL SUPPORT.—Subject to subsection (e), during fiscal years 1997 and 1998,[3] the Secretary of Defense may provide the Government of Mexico with the support described in subsection (b) for the counter-drug activities of the Government of Mexico. In providing support to the Government of Mexico under this section, the Secretary of Defense shall consult with the Secretary of State.[4] The support provided under the authority of this subsection shall be in addition to support provided to the Government of Mexico under any other provision of law.

(b) TYPES OF SUPPORT.—The authority under subsection (a) is limited to the provision of the following types of support:

(1) The transfer of nonlethal protective and utility personnel equipment.

(2) The transfer of the following nonlethal specialized equipment:

(A) Navigation equipment.

(B) Secure and nonsecure communications equipment.

(C) Photo equipment.

(D) Radar equipment.

(E) Night vision systems.

(F) Repair equipment and parts for equipment referred to in subparagraphs (A), (B), (C), (D), and (E).

(3) The transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software for aircraft or patrol boats, and related repair equipment.

(4) The maintenance and repair of equipment of the Government of Mexico that is used for counter-drug activities.

(c) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

(d) FUNDING.—Of the amount authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activi-

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[2] See also sec. 1033 of Public Law 105–85 (111 Stat. 1881), page 452.

[3] Sec. 1032(a)(1) of Public Law 105–85 (111 Stat. 1881) struck out "fiscal year 1997" and inserted in lieu thereof "fiscal years 1997 and 1998".

[4] Sec. 1032(a)(2) of Public Law 105–85 (111 Stat. 1881) added "In providing support to the Government of Mexico under this section, the Secretary of Defense shall consult with the Secretary of State.".

ties, an amount not to exceed[5] $8,000,000 shall be available for the provision of support under this section. Funds made available for fiscal year 1997 under this subsection and unobligated by September 30, 1997, may be obligated during fiscal year 1998. No funds are authorized to be appropriated for fiscal year 1998 for the provision of support under this section.[6]

(e) LIMITATIONS.—(1) The Secretary may not obligate or expend funds to provide support under this section until 15 days after the date on which the Secretary submits to the committees referred to in paragraph (3) the certification described in paragraph (2).

(2) The certification referred to in paragraph (1) is a written certification of the following:

(A) That the provision of support under this section will not adversely affect the military preparedness of the United States Armed Forces.

(B) That the equipment and materiel provided as support will be used only by officials and employees of the Government of Mexico who have undergone a background check by that government.

(C) That the Government of Mexico has certified to the Secretary that—

(i) the equipment and material provided as support will be used only by the officials and employees referred to in subparagraph (B);

(ii) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(iii) the equipment and materiel will be used only for the purposes intended by the United States Government.

(D) That the Government of Mexico has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(E) That the departments, agencies, and instrumentalities of the Government of Mexico will grant United States Government personnel access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(F) That the Government of Mexico will provide security with respect to the equipment and materiel provided as support that is substantially the same degree of security that the United States Government would provide with respect to such equipment and materiel.

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[5] Sec. 1032(b)(1) of Public Law 105–85 (111 Stat. 1881) struck out "not more than" and inserted in lieu thereof "an amount not to exceed".

[6] Sec. 1032(b)(2) of Public Law 105–85 (111 Stat. 1881) added "Funds made available for fiscal year 1997 under this subsection and unobligated by September 30, 1997, may be obligated during fiscal year 1998. No funds are authorized to be appropriated for fiscal year 1998 for the provision of support under this section.".

(G) That the Government of Mexico will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(3) The committees referred to in this paragraph are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

SEC. 1032. AVAILABILITY OF FUNDS FOR CERTAIN DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

(a) P–3B AIRCRAFT.—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than $98,000,000 may be used for the purpose of procuring or modifying two P–3B aircraft for use by departments and agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities. However, funds may not be obligated for such purpose until the Secretary of Defense submits to the congressional defense committees a certification that the procurement or modification of such aircraft and the use of such aircraft by other departments or agencies of the United States will significantly reduce the level of support that would otherwise be required of E–3 AWACS aircraft as part of the drug interdiction and counter-drug mission of the Department of Defense.

(b) NONINTRUSIVE INSPECTION DEVICES.—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than $10,000,000 may be used to procure three nonintrusive inspection devices for use by departments and agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities.

(c) AUTHORITY TO TRANSFER EQUIPMENT.—The Secretary of Defense may transfer to the head of any department or agency of the United States outside the Department of Defense any equipment procured or modified under this section with funds referred to in this section.

SEC. 1033.[7] TRANSFER OF EXCESS PERSONAL PROPERTY TO SUPPORT LAW ENFORCEMENT ACTIVITIES.

(a) TRANSFER AUTHORITY.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2576 the following new section: * * *

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[7] Sec. 1033 added a new sec. 2576a to 10 U.S.C., relating to the sale or donation of excess DOD personal property to state and other Federal law enforcement agencies for counter-drug and counter-terrorism activities.

SUBTITLE D—REPORTS AND STUDIES

SEC. 1041.[8] ANNUAL REPORT ON OPERATION PROVIDE COMFORT AND OPERATION ENHANCED SOUTHERN WATCH.

(a) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report on Operation Provide Comfort and Operation Enhanced Southern Watch.

(b) MATTERS RELATING TO OPERATION PROVIDE COMFORT.—Each report under subsection (a) shall include, with respect to Operation Provide Comfort, the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for that operation during the fiscal year in which the report is submitted and projected for the following fiscal year, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during each of those fiscal years.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to that operation during each of those fiscal years.

(3) A discussion of options being pursued to reduce the involvement of the Department of Defense in those aspects of that operation that are not directly related to the military mission of the Department of Defense.

(4) A discussion of the exit strategy for United States involvement in, and support for, that operation.

(5) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost to the Department of Defense of accomplishing that mission while maintaining mission success.

(6) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(7) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Kurdish population in northern Iraq.

(c) MATTERS RELATING TO OPERATION ENHANCED SOUTHERN WATCH.—Each report under subsection (a) shall include, with respect to Operation Enhanced Southern Watch, the following:

(1) The expected duration and annual costs of the various elements of that operation.

(2) The political and military objectives associated with that operation.

(3) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(4) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost of accomplishing that mission while maintaining mission success.

(5) A comprehensive discussion of the political and military objectives and initiatives that the Department of Defense has

[8] 10 U.S.C. 113 note.

pursued, and intends to pursue, in order to reduce United States involvement in that operation.

(6) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Shiite population by air attack in southern Iraq or to jeopardize the security of Kuwait.

(d) TERMINATION OF REPORT REQUIREMENT.—The requirement under subsection (a) shall cease to apply with respect to an operation named in that subsection upon the termination of United States involvement in that operation.

(e) DEFINITIONS.—For purposes of this section:

(1) OPERATION ENHANCED SOUTHERN WATCH.—The term "Operation Enhanced Southern Watch" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

(2) OPERATION PROVIDE COMFORT.—The term "Operation Provide Comfort" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

SEC. 1042.[9] ANNUAL REPORT ON EMERGING OPERATIONAL CONCEPTS.

(a) REPORT REQUIRED.—Not later than March 1 of each year through 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on emerging operational concepts. Each such report shall be prepared by the Secretary in consultation with the Chairman of the Joint Chiefs of Staff.

(b) MATTERS TO BE INCLUDED.—Each such report shall contain a description, for the year preceding the year in which the report is submitted, of the following:

(1) The process undertaken in the Department of Defense, and in each of the Army, Navy, Air Force, and Marine Corps, to define and develop doctrine, operational concepts, organizational concepts, and acquisition strategies to address—

(A) the potential of emerging technologies for significantly improving the operational effectiveness of the Armed Forces;

(B) changes in the international order that may necessitate changes in the operational capabilities of the Armed Forces;

(C) emerging capabilities of potential adversary states; and

(D) changes in defense budget projections.

(2) The manner in which the processes described in paragraph (1) are harmonized to ensure that there is a sufficient consideration of the development of joint doctrine, operational concepts, and acquisition strategies.

(3) The manner in which the processes described in paragraph (1) are coordinated through the Joint Requirements

[9] 10 U.S.C. 113 note.

Oversight Council and reflected in the planning, programming, and budgeting process of the Department of Defense.

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SEC. 1045. QUARTERLY REPORTS REGARDING COPRODUCTION AGREEMENTS.

(a) QUARTERLY REPORTS ON COPRODUCTION AGREEMENTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended— * * *[10]

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SEC. 1048. REPORT ON NATO ENLARGEMENT.

(a) REPORT.—Not later than February 1, 1997, the President shall transmit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives a report on the enlargement of the North Atlantic Treaty Organization. The report shall contain a comprehensive discussion of the following:

(1) Geopolitical and financial costs and benefits, including financial savings, associated with—

(A) enlargement of the North Atlantic Treaty Organization;

(B) further delays in the process of enlargement of the North Atlantic Treaty Organization; and

(C) a failure to enlarge the North Atlantic Treaty Organization.

(2) Additional North Atlantic Treaty Organization and United States military expenditures requested by prospective members of the North Atlantic Treaty Organization to facilitate their admission into the North Atlantic Treaty Organization.

(3) Modifications necessary in the military strategy of the North Atlantic Treaty Organization and force structure required by the inclusion of new members and steps necessary to integrate new members, including the role of nuclear and conventional capabilities, reinforcement, force deployments, prepositioning of equipment, mobility, and headquarter locations.

(4) The relationship between enlargement of the North Atlantic Treaty Organization and transatlantic stability and security.

(5) The state of military preparedness and interoperability of Central and Eastern European nations as it relates to the responsibilities of membership of the North Atlantic Treaty Organization and additional security costs or benefits that may accrue to the United States from enlargement of the North Atlantic Treaty Organization.

(6) The state of democracy and free market development as it affects the preparedness of Central and Eastern European nations for the responsibilities of membership of the North Atlantic Treaty Organization, including civilian control of the

[10] For amended text, see *Legislation on Foreign Relations Through 1997*, vol. I–B.

military, the rule of law, human rights, and parliamentary oversight.

(7) The state of relations between prospective members of the North Atlantic Treaty Organization and their neighbors, steps taken by prospective members to reduce tensions, and mechanisms for the peaceful resolution of border disputes.

(8) The commitment of prospective members of the North Atlantic Treaty Organization to the principles of the North Atlantic Treaty and the security of the North Atlantic area.

(9) The effect of enlargement of the North Atlantic Treaty Organization on the political, economic, and security conditions of European Partnership for Peace nations not among the first new members of the North Atlantic Treaty Organization.

(10) The relationship between enlargement of the North Atlantic Treaty Organization and EU enlargement and the costs and benefits of both.

(11) The relationship between enlargement of the North Atlantic Treaty Organization and treaties relevant to United States and European security, such as the Conventional Armed Forces in Europe Treaty.

(12) The anticipated impact both of enlargement of the North Atlantic Treaty Organization and further delays of enlargement on Russian foreign and defense policies and the costs and benefits of a security relationship between the North Atlantic Treaty Organization and Russia.

(b) INTERPRETATION.—Nothing in this section shall be interpreted or construed to affect the implementation of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), or any other program or activity which facilitates or assists prospective members of the North Atlantic Treaty Organization.

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SUBTITLE F—OTHER MATTERS

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SEC. 1063. AUTHORITY TO ACCEPT SERVICES FROM FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS FOR DEFENSE PURPOSES.

Section 2608(a) of title 10, United States Code, is amended by inserting before the period at the end the following: "and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense".[11]

SEC. 1064.[12] PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL.

(a) COLLECTION AND DISSEMINATION.—A department or agency of the United States may issue a license for the collection or dissemination by a non-Federal entity of satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

[11] For amended text, see page 437.
[12] 15 U.S.C. 5621 note.

(b) DECLASSIFICATION AND RELEASE.—A department or agency of the United States may declassify or otherwise release satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

SEC. 1065.[13] GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES.

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the George C. Marshall European Center for Strategic Security Studies (in this section referred to as the "Marshall Center"), accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Marshall Center.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Marshall Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Marshall Center for the same purposes and same period as the appropriations with which merged.

(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds $2,000,000 in any fiscal year. Any such notice shall list each of the contributors of such amounts and the amount of each contribution in such fiscal year.

(4) For purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.

(b) MARSHALL CENTER PARTICIPATION BY FOREIGN NATIONS.—(1) Notwithstanding any other provision of law, the Secretary of Defense may authorize participation by a European or Eurasian nation in Marshall Center programs if the Secretary determines, after consultation with the Secretary of State, that such participation is in the national interest of the United States.

(2) Not later than January 31 of each year, the Secretary of Defense shall submit to Congress a report setting forth the names of the foreign nations permitted to participate in programs of the Marshall Center during the preceding year under paragraph (1). Each such report shall be prepared by the Secretary with the assistance of the Director of the Marshall Center.

(c) EXEMPTIONS FOR MEMBERS OF MARSHALL CENTER BOARD OF VISITORS FROM CERTAIN REQUIREMENTS.—(1) In the case of any person invited to serve without compensation on the Marshall Center Board of Visitors, the Secretary of Defense may waive any requirement for financial disclosure that would otherwise apply to that person solely by reason of service on such Board.

(2) Notwithstanding any other provision of law, a member of the Marshall Center Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

[13] 10 U.S.C. 113 note.

(3) Notwithstanding section 219 of title 18, United States Code, a non-United States citizen may serve on the Marshall Center Board of Visitors even though registered as a foreign agent.

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SEC. 1081. SENSE OF CONGRESS REGARDING SEMICONDUCTOR TRADE AGREEMENT BETWEEN UNITED STATES AND JAPAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Deregulation of the Japanese economy requires government attention to the removal of barriers to imports of manufactured goods.

(4) The United States-Japan Semiconductor Trade Agreement has begun the process of deregulation in the semiconductor sector and is opening the Japanese market to competitive foreign products.

(5) The United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector.

(6) The mechanisms include joint calculation of foreign market share, deterrence of dumping, and promotion of industrial cooperation in the design of foreign semiconductor devices.

(7) Because of these actions under the United States-Japan Semiconductor Trade Agreement, the United States and Japan today enjoy trade in semiconductors which is mutually beneficial, harmonious, and free from the friction that once characterized the semiconductor industry.

(8) Because of structural barriers in Japan, a gap still remains between the share of the world market for semiconductor products outside Japan that the United States and other foreign semiconductor sources are able to capture through competitiveness and the share of the Japanese semiconductor market that the United States and those other sources are able to capture through competitiveness, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications.

(9) The competitiveness and health of the United States semiconductor industry is of critical importance to the overall economic well-being and high-technology defense capabilities of the United States.

(10) The economic interests of both the United States and Japan are best served by well functioning, open markets, deterrence of dumping, and continuing good cooperative relationships in all sectors, including semiconductors.

(11) A strong and healthy military and political alliance between the United States and Japan requires continuation of the industrial and economic cooperation promoted by the United States-Japan Semiconductor Trade Agreement.

(12) President Clinton has called on the Government of Japan to agree to a continuation of the United States-Japan Semiconductor Trade Agreement beyond the current agreement's expiration on July 31, 1996.

(13) The Government of Japan has opposed any continuation of the United States-Japan Semiconductor Trade Agreement to promote cooperation in United States-Japan semiconductor trade.

(b) SENSE OF CONGRESS.—On the basis of the findings contained in subsection (a), it is the sense of Congress that—

(1) it is regrettable that the Government of Japan has refused to consider continuation of the United States-Japan Semiconductor Trade Agreement to ensure that cooperation continues in the semiconductor sector beyond the expiration of the agreement on July 31, 1996; and

(2) the President should take all necessary and appropriate actions to ensure the resumption and extension of the United States-Japan Semiconductor Trade Agreement beyond July 31, 1996.

(c) DEFINITION.—For purposes of this section, the term "United States-Japan Semiconductor Trade Agreement" refers to the agreement between the United States and Japan concerning trade in semiconductor products, with arrangement, done by exchange of letters at Washington on June 11, 1991.

SEC. 1082.[14] AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.

(a) AUTHORITY TO ENTER INTO INTERNATIONAL EXCHANGE AGREEMENTS.—(1) The Secretary of Defense may enter into international defense personnel exchange agreements.

(2) For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of an ally of the United States or another friendly foreign country for the exchange of—

(A) military and civilian personnel of the Department of Defense; and

(B) military and civilian personnel of the defense ministry of that foreign government.

(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense and personnel of the Department of Defense may be assigned to positions in the defense min-

[14] 10 U.S.C. 168 note.

istry of such foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government.

(3) An individual may not be assigned to a position pursuant to an international defense personnel exchange agreement unless the assignment is acceptable to both governments.

(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an international defense personnel exchange agreement to provide personnel with qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

(d) PAYMENT OF PERSONNEL COSTS.—(1) Each government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its own personnel in accordance with the applicable laws and regulations of such government.

(2) Paragraph (1) does not apply to the following costs:

(A) The cost of temporary duty directed by the host government.

(B) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

(C) Costs incident to the use of the facilities of the host government in the performance of assigned duties.

(e) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

(f) RELATIONSHIP TO OTHER AUTHORITY.—The requirements in subsections (c) and (d) shall apply in the exercise of any authority of the Secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for the exchange of members of the armed forces and military personnel of the foreign country. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.

SEC. 1083. SENSE OF SENATE REGARDING BOSNIA AND HERZEGOVINA.

It is the sense of the Senate that, notwithstanding any other provision of law, in order to maximize the amount of equipment provided to the Government of Bosnia and Herzegovina under the authority contained in section 540 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 737), the price of the transferred equipment shall not exceed the lowest level at which the same or similar equipment has been transferred to any other country under any other United States Government program.

SEC. 1084.[15] DEFENSE BURDENSHARING.

(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) Increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide.

(b) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

(5) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

[15] 22 U.S.C. 1928 note.

(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (a);

(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a); and

(3) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(d) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1997, in classified and unclassified form.

(e) REPORT DATE.—Section 1003(c) of Public Law 98–515[16] is amended by striking out "each year" and inserting "by March 1, 1998, and every other year thereafter".

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[16] Should probably read "Public Law 98–525". For amended text, see page 884.

TITLE XIII—ARMS CONTROL AND RELATED MATTERS [17]

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TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION [18]

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TITLE XV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION [19]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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SUBTITLE C—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

SEC. 3137. PROHIBITION ON FUNDING NUCLEAR WEAPONS ACTIVITIES WITH PEOPLE'S REPUBLIC OF CHINA.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended for any activity associated with the conduct of cooperative programs relating to nuclear weapons or nuclear weapons technology, including stockpile stewardship, safety, and use control, with the People's Republic of China.

(b) REPORT.—(1) The Secretary of Energy shall prepare, in consultation with the Secretary of Defense, a report containing a description of all discussions and activities between the United States and the People's Republic of China regarding nuclear weapons matters that have occurred before the date of the enactment of this Act and that are planned to occur after such date. For each such discussion or activity, the report shall include—

(A) the authority under which the discussion or activity took or will take place;

(B) the subject of the discussion or activity;

(C) participants or likely participants;

(D) the source and amount of funds used or to be used to pay for the discussion or activity; and

(E) a description of the actions taken or to be taken to ensure that no classified information or unclassified controlled information was or will be revealed, and a determination of whether classified information or unclassified controlled information was revealed in previous discussions.

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[17] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.
[18] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.
[19] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

(2) The report shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than January 15, 1997.

SEC. 3138. INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP PROGRAMS.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) EXCEPTION.—Subsection (a) does not apply—

(1) with respect to such activities conducted between the United States and the United Kingdom and between the United States and France; and

(2) to activities carried out under title XV of this Act (relating to cooperative threat reduction with states of the former Soviet Union).

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SUBTITLE D—OTHER MATTERS

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SEC. 3158. UPDATE OF REPORT ON NUCLEAR TEST READINESS POSTURES.

Not later than June 1, 1997, the Secretary of Energy shall submit to Congress a report which updates the report submitted by the Secretary under section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623). The updated report shall include the matters specified under such section, current as of the date of the updated report.

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SEC. 3162.[20] COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on Maintaining United States Nuclear Weapons Expertise" (in this section referred to as the "Commission").

(b) ORGANIZATIONAL MATTERS.—(1)(A) The Commission shall be composed of eight members appointed from among individuals in the public and private sectors who have significant experience in matters relating to nuclear weapons, as follows:

(i) Two shall be appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate).

(ii) One shall be appointed by the minority leader of the Senate (in consultation with the majority leader of the Senate).

(iii) Two shall be appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives).

(iv) One shall be appointed by the minority leader of the House of Representatives (in consultation with the Speaker of the House of Representatives).

[20] 42 U.S.C. 2121 note.

(v) Two shall be appointed by the Secretary of Energy.

(B) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) The chairman of the Commission shall be designated from among the members of the Commission appointed under subparagraph (A) by the majority leader of the Senate, in consultation with the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives. The chairman may be designated once five members of the Commission have been appointed under subparagraph (A).[21]

(D) Members shall be appointed not later than 60 days after the date of the enactment of this Act.

(E)[22] The Commission may commence its activities under this section upon the designation of the chairman of the Commission under subparagraph (C).

(2) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

(c) DUTIES.—(1) The Commission shall develop a plan for recruiting and retaining within the Department of Energy nuclear weapons complex such scientific, engineering, and technical personnel as the Commission determines appropriate in order to permit the Department to maintain over the long term a safe and reliable nuclear weapons stockpile without engaging in underground testing.

(2) In developing the plan, the Commission shall—

(A) identify actions that the Secretary may undertake to attract qualified scientific, engineering, and technical personnel to the nuclear weapons complex of the Department; and

(B) review and recommend improvements to the on-going efforts of the Department to attract such personnel to the nuclear weapons complex.

(d) REPORT.—Not later than March 15, 1999,[23] the Commission shall submit to the Secretary and to Congress a report containing the plan developed under subsection (c). The report may include recommendations for legislation and administrative action.

(e) COMMISSION PERSONNEL MATTERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

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[21] Sec. 3163(a)(1) of Public Law 105–85 (111 Stat. 2049) added "The chairman may be designated once five members of the Commission have been appointed under subparagraph (A).".

[22] Sec. 3163(a)(2) of Public Law 105–85 (111 Stat. 2050) added subpara. (E).

[23] Sec. 3163(b) of Public Law 105–85 (111 Stat. 2050) struck out "March 15, 1998," and inserted in lieu thereof "March 15, 1999,".

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(4) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) TERMINATION.—The Commission shall terminate 30 days after the date on which the Commission submits its report under subsection (d).

(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

(h) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 3101, not more than $1,000,000 shall be available for the activities of the Commission under this section. Funds made available to the Commission under this section shall remain available until expended.

SEC. 3163. SENSE OF CONGRESS REGARDING RELIABILITY AND SAFETY OF REMAINING NUCLEAR FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is committed to proceeding with a robust, science-based stockpile stewardship program with respect to production of nuclear weapons, and to maintaining nuclear weapons production capabilities and capacities, that are adequate—

(A) to ensure the safety, reliability, and performance of the United States nuclear arsenal; and

(B) to meet such changing national security requirements as may result from international developments or technical problems with nuclear warheads.

(2) The United States is committed to reestablishing and maintaining production facilities for nuclear weapons components at levels that are sufficient—

(A) to satisfy requirements for the safety, reliability, and performance of United States nuclear weapons; and

(B) to demonstrate and sustain production capabilities and capacities.

(3) The United States is committed to maintaining the nuclear weapons laboratories and protecting core nuclear weapons competencies.

(4) The United States is committed to ensuring rapid access to a new production source of tritium within the next decade, as it currently has no meaningful capability to produce tritium,

a component that is essential to the performance of modern nuclear weapons.

(5) The United States reserves the right, consistent with United States law, to resume underground nuclear testing to maintain confidence in the United States stockpile of nuclear weapons if warhead design flaws or aging of nuclear weapons result in problems that a robust stockpile stewardship program cannot solve.

(6) The United States is committed to funding the Nevada Test Site at a level that maintains the ability of the United States to resume underground nuclear testing within one year after a national decision to do so is made.

(7) The United States reserves the right to invoke the supreme national interest of the United States and withdraw from any future arms control agreement to limit underground nuclear testing.

(b) SENSE OF CONGRESS REGARDING PRESIDENTIAL CONSULTATION WITH CONGRESS.—It is the sense of Congress that the President should consult closely with Congress regarding United States policy and practices to ensure confidence in the safety, reliability, and performance of the nuclear stockpile of the United States.

(c) SENSE OF CONGRESS REGARDING NOTIFICATION AND CONSULTATION.—It is the sense of Congress that, upon a determination by the President that a problem with the safety, reliability, or performance of the nuclear stockpile has occurred and that the problem cannot be corrected within the stockpile stewardship program, the President shall—

(1) immediately notify Congress of the problem; and

(2) submit to Congress in a timely manner a plan for corrective action with respect to the problem, including—

(A) a technical description of the activities required under the plan; and

(B) if underground testing of nuclear weapons would assist in such corrective action, an assessment of the advisability of withdrawing from any treaty that prohibits underground testing of nuclear weapons.

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TITLE XXXV—PANAMA CANAL COMMISSION[24]

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[24] Amendments to the Panama Canal Act have been incorporated into that Act; see *Legislation on Foreign Relations Through 1997*, vol. II, sec. G.

f. National Defense Authorization Act for Fiscal Year 1996

Partial text of Public Law 104–106 [S. 1124], 110 Stat. 186, approved February 10, 1996; amended by Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119]. 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to reform acquisition laws and information technology management of the Federal Government, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1996".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into five divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Federal Acquisition Reform.

(5) Division E—Information Technology Management Reform.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

SEC. 4. EXTENSION OF TIME FOR SUBMISSION OF REPORTS.

In the case of any provision of this Act, or any amendment made by a provision of this Act, requiring the submission of a report to Congress (or any committee of Congress), that report shall be submitted not later than the later of—

(1) the date established for submittal of the report in such provision or amendment; or

(2) the date that is 45 days after the date of the enactment of this Act.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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SUBTITLE B—ARMY PROGRAMS

SEC. 112. REPEAL OF REQUIREMENTS FOR ARMORED VEHICLE UPGRADES.

Subsection (j) of section 21 of the Arms Export Control Act (22 U.S.C. 2761) is repealed.[1]

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 218. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4),[2] $138,237,000 shall be available for the Counterproliferation Support Program, of which $30,000,000 shall be available for a tactical antisatellite technologies program.

(b) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1996 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed $50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

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[1] See *Legislation on Foreign Relations Through 1997*, vol. I–A.

[2] Sec. 201(4) authorized, for Defense-wide activities, $9,693,180,000.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

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SUBTITLE C—BALLISTIC MISSILE DEFENSE ACT OF 1995[3]

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Ballistic Missile Defense Act of 1995".

SEC. 232. FINDINGS.

Congress makes the following findings:

(1) The emerging threat that is posed to the national security interests of the United States by the proliferation of ballistic missiles is significant and growing, both in terms of numbers of missiles and in terms of the technical capabilities of those missiles.

(2) The deployment of ballistic missile defenses is a necessary, but not sufficient, element of a broader strategy to discourage both the proliferation of weapons of mass destruction and the proliferation of the means of their delivery and to defend against the consequences of such proliferation.

(3) The deployment of effective Theater Missile Defense systems can deter potential adversaries of the United States from escalating a conflict by threatening or attacking United States forces or the forces or territory of coalition partners or allies of the United States with ballistic missiles armed with weapons of mass destruction to offset the operational and technical advantages of the United States and its coalition partners and allies.

(4) United States intelligence officials have provided intelligence estimates to congressional committees that (A) the trend in missile proliferation is toward longer range and more sophisticated ballistic missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within five years, and (C) although a new, indigenously developed ballistic missile threat to the continental United States is not foreseen within the next ten years, determined countries can acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous development.

(5) The development and deployment by the United States and its allies of effective defenses against ballistic missiles of all ranges will reduce the incentives for countries to acquire such missiles or to augment existing missile capabilities.

(6) The concept of mutual assured destruction (based upon an offense-only form of deterrence), which is the major philosophical rationale underlying the ABM Treaty, is now questionable as a basis for stability in a multipolar world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

[3] 10 U.S.C. 2431 note.

(7) The development and deployment of a National Missile Defense system against the threat of limited ballistic missile attacks—

(A) would strengthen deterrence at the levels of forces agreed to by the United States and Russia under the Strategic Arms Reduction Talks Treaty (START–I); and

(B) would further strengthen deterrence if reductions below the levels permitted under START–I should be agreed to and implemented in the future.

(8) The distinction made during the Cold War, based upon the technology of the time, between strategic ballistic missiles and nonstrategic ballistic missiles, which resulted in the distinction made in the ABM Treaty between strategic defense and nonstrategic defense, has become obsolete because of technological advancement (including the development by North Korea of long-range Taepo-Dong I and Taepo-Dong II missiles) and, therefore, that distinction in the ABM Treaty should be reviewed.

SEC. 233. BALLISTIC MISSILE DEFENSE POLICY.

It is the policy of the United States—

(1) to deploy affordable and operationally effective theater missile defenses to protect forward-deployed and expeditionary elements of the Armed Forces of the United States and to complement the missile defense capabilities of forces of coalition partners and of allies of the United States; and

(2) to seek a cooperative, negotiated transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 234. THEATER MISSILE DEFENSE ARCHITECTURE.

(a) ESTABLISHMENT OF CORE PROGRAM.—To implement the policy established in paragraph (1) of section 233, the Secretary of Defense shall restructure the core theater missile defense program to consist of the following systems:[4]

(1) The Patriot PAC–3 system.[5]

(2)[6] Navy Area Defense system.

(3) The Theater High-Altitude Area Defense (THAAD) system.[7]

(4)[8] The Navy Theater Wide system.

(b) USE OF STREAMLINED ACQUISITION PROCEDURES.—The Secretary of Defense shall prescribe and use streamlined acquisition

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[4] Sec. 236(1) of Public Law 105–85 (111 Stat. 1665) struck out ", to be carried out so as to achieve the specified capabilities" preceding the colon.

[5] Sec. 236(2) of Public Law 105–85 (111 Stat. 1665) struck out ", with a first unit equipped (FUE) during fiscal year 1998" preceding the period.

[6] Sec. 236(3) of Public Law 105–85 (111 Stat. 1665) amended and restated para. (2). It formerly read as follows:

"(2) The Navy Lower Tier (Area) system, with a user operational evaluation system (UOES) capability during fiscal year 1997 and an initial operational capability (IOC) during fiscal year 1999.".

[7] Sec. 236(4) of Public Law 105–85 (111 Stat. 1665) struck out ", with a user operational evaluation system (UOES) capability not later than fiscal year 1998 and a first unit equipped (FUE) not later than fiscal year 2000" preceding the period.

[8] Sec. 236(5) of Public Law 105–85 (111 Stat. 1665) amended and restated para. (4). It formerly read as follows:

"(4) The Navy Upper Tier (Theater Wide) system, with a user operational evaluation system (UOES) capability during fiscal year 1999 and an initial operational capability (IOC) during fiscal year 2001.".

policies and procedures to reduce the cost and increase the efficiency of developing and deploying the theater missile defense systems specified in subsection (a).

(c) INTEROPERABILITY AND SUPPORT OF CORE SYSTEMS.—To maximize effectiveness and flexibility of the systems comprising the core theater missile defense program, the Secretary of Defense shall ensure that those systems are integrated and complementary and are fully capable of exploiting external sensor and battle management support from systems such as—

(A) the Cooperative Engagement Capability (CEC) system of the Navy;

(B) airborne sensors; and

(C) space-based sensors (including, in particular, the Space and Missile Tracking System).

(d) FOLLOW-ON SYSTEMS.—(1) The Secretary of Defense shall prepare an affordable development plan for theater missile defense systems to be developed as follow-on systems to the core systems specified in subsection (a). The Secretary shall make the selection of a system for inclusion in the plan based on the capability of the system to satisfy military requirements not met by the systems in the core program and on the capability of the system to use prior investments in technologies, infrastructure, and battle-management capabilities that are incorporated in, or associated with, the systems in the core program.

(2) The Secretary may not proceed with the development of a follow-on theater missile defense system beyond the Demonstration/Validation stage of development unless the Secretary designates that system as a part of the core program under this section and submits to the congressional defense committees notice of that designation. The Secretary shall include with any such notification a report describing—

(A) the requirements for the system and the specific threats that such system is designed to counter;

(B) how the system will relate to, support, and build upon existing core systems;

(C) the planned acquisition strategy for the system; and

(D) a preliminary estimate of total program cost for that system and the effect of development and acquisition of such system on Department of Defense budget projections.

(e) PROGRAM ACCOUNTABILITY REPORT.—(1) As part of the annual report of the Ballistic Missile Defense Organization required by section 224 of Public Law 101–189 (10 U.S.C. 2431 note), the Secretary of Defense shall describe the technical milestones, the schedule, and the cost of each phase of development and acquisition (together with total estimated program costs) for each core and follow-on theater missile defense program.

(2) As part of such report, the Secretary shall describe, with respect to each program covered in the report, any variance in the technical milestones, program schedule milestones, and costs for the program compared with the information relating to that program in the report submitted in the previous year and in the report submitted in the first year in which that program was covered.

(f) REPORTS ON TMD SYSTEM LIMITATIONS UNDER ABM TREATY.—(1) Whenever, after January 1, 1993, the Secretary of Defense

issues a certification with respect to the compliance of a particular Theater Missile Defense system with the ABM Treaty, the Secretary shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a copy of such certification. Such transmittal shall be made not later than 30 days after the date on which such certification is issued, except that in the case of a certification issued before the date of the enactment of this Act, such transmittal shall be made not later than 60 days after the date of the enactment of this Act.

(2) If a certification under paragraph (1) is based on application of a policy concerning United States compliance with the ABM Treaty that differs from the policy described in section 235(b)(1), the Secretary shall include with the transmittal under that paragraph a report providing a detailed assessment of—

(A) how the policy applied differs from the policy described in section 235(b)(1); and

(B) how the application of that policy (rather than the policy described in section 235(b)(1)) will affect the cost, schedule, and performance of that system.

SEC. 235. PROHIBITION ON USE OF FUNDS TO IMPLEMENT AN INTERNATIONAL AGREEMENT CONCERNING THEATER MISSILE DEFENSE SYSTEMS.

(a) FINDINGS.—(1) Congress hereby reaffirms—

(A) the finding in section 234(a)(7) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note) that the ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles, regardless of the capabilities of such missiles, unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles; and

(B) the statement in section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2700) that the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution.

(2) Congress also finds that the demarcation standard described in subsection (b)(1) for compliance of a missile defense system, system upgrade, or system component with the ABM Treaty is based upon current technology.

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

(1) unless a missile defense system, system upgrade, or system component (including one that exploits data from space-based or other external sensors) is flight tested in an ABM-qualifying flight test (as defined in subsection (e)), that system, system upgrade, or system component has not, for purposes of the ABM Treaty, been tested in an ABM mode nor been given

capabilities to counter strategic ballistic missiles and, therefore, is not subject to any application, limitation, or obligation under the ABM Treaty; and

(2) any international agreement that would limit the research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles in a manner that would be more restrictive than the compliance criteria specified in paragraph (1) should be entered into only pursuant to the treaty making powers of the President under the Constitution.

(c) PROHIBITION ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1996 may not be obligated or expended to implement an agreement, or any understanding with respect to interpretation of the ABM Treaty, between the United States and any of the independent states of the former Soviet Union entered into after January 1, 1995, that—

(1) would establish a demarcation between theater missile defense systems and anti-ballistic missile systems for purposes of the ABM Treaty; or

(2) would restrict the performance, operation, or deployment of United States theater missile defense systems.

(d) EXCEPTIONS.—Subsection (c) does not apply—

(1) to the extent provided by law in an Act enacted after this Act;

(2) to expenditures to implement that portion of any such agreement or understanding that implements the policy set forth in subsection (b)(1); or

(3) to expenditures to implement any such agreement or understanding that is approved as a treaty or by law.

(e) ABM-QUALIFYING FLIGHT TEST DEFINED.—For purposes of this section, an ABM-qualifying flight test is a flight test against a ballistic missile which, in that flight test, exceeds (1) a range of 3,500 kilometers, or (2) a velocity of 5 kilometers per second.

SEC. 236. BALLISTIC MISSILE DEFENSE COOPERATION WITH ALLIES.

It is in the interest of the United States to develop its own missile defense capabilities in a manner that will permit the United States to complement the missile defense capabilities developed and deployed by its allies and possible coalition partners. Therefore, the Congress urges the President—

(1) to pursue high-level discussions with allies of the United States and selected other states on the means and methods by which the parties on a bilateral basis can cooperate in the development, deployment, and operation of ballistic missile defenses;

(2) to take the initiative within the North Atlantic Treaty Organization to develop consensus in the Alliance for a timely deployment of effective ballistic missile defenses by the Alliance; and

(3) in the interim, to seek agreement with allies of the United States and selected other states on steps the parties should take, consistent with their national interests, to reduce

the risks posed by the threat of limited ballistic missile attacks, such steps to include—

(A) the sharing of early warning information derived from sensors deployed by the United States and other states;

(B) the exchange on a reciprocal basis of technical data and technology to support both joint development programs and the sale and purchase of missile defense systems and components; and

(C) operational level planning to exploit current missile defense capabilities and to help define future requirements.

SEC. 237. ABM TREATY DEFINED.

For purposes of this subtitle, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SEC. 238. REPEAL OF MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (10 U.S.C. 2431 note) is repealed.

SUBTITLE D—OTHER BALLISTIC MISSILE DEFENSE PROVISIONS

SEC. 251.[9] BALLISTIC MISSILE DEFENSE PROGRAM ELEMENTS.

(a) ELEMENTS SPECIFIED.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1996 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

(1) The Patriot system.

(2) The Navy Lower Tier (Area) system.

(3) The Theater High-Altitude Area Defense (THAAD) system.

(4) The Navy Upper Tier (Theater Wide) system.

(5) The Corps Surface-to-Air Missile (SAM) system.

(6) Other Theater Missile Defense Activities.

(7) National Missile Defense.

(8) Follow-On and Support Technologies.

(b) TREATMENT OF CORE THEATER MISSILE DEFENSE PROGRAMS.—Amounts requested for core theater missile defense programs specified in section 234 shall be specified in individual, dedicated program elements, and amounts appropriated for such programs shall be available only for activities covered by those program elements.

(c) BM/C^{3}I PROGRAMS.—Amounts requested for programs, projects, and activities involving battle management, command, control, communications, and intelligence (BM/C^{3}I) shall be included in the "Other Theater Missile Defense Activities" program

[9] 10 U.S.C. 221 note. See also sec. 233 of Public Law 105–85 (111 Stat. 1663), page 446.

element or the "National Missile Defense" program element, as determined on the basis of the primary objectives involved.

(d) MANAGEMENT AND SUPPORT.—Each program element shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

SEC. 252. TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.

Subsection (a) of section 237 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1600) is amended to read as follows:

"(a) TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—(1) The Secretary of Defense may not approve a theater missile defense interceptor program proceeding beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that such program has successfully completed initial operational test and evaluation.

"(2) In order to be certified under paragraph (1) as having been successfully completed, the initial operational test and evaluation conducted with respect to an interceptors program must have included flight tests—

"(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

"(B) the results of which demonstrate the achievement by the interceptors of the baseline performance thresholds.

"(3) For purposes of this subsection, the baseline performance thresholds with respect to a program are the weapons systems performance thresholds specified in the baseline description for the system established (pursuant to section 2435(a)(1) of title 10, United States Code) before the program entered the engineering and manufacturing development stage.

"(4) The number of flight tests described in paragraph (2) that are required in order to make the certification under paragraph (1) shall be a number determined by the Secretary of Defense to be sufficient for the purposes of this section.

"(5) The Secretary may augment live-fire testing to demonstrate weapons system performance goals for purposes of the certification under paragraph (1) through the use of modeling and simulation that is validated by ground and flight testing.".

SEC. 253. REPEAL OF MISSILE DEFENSE PROVISIONS.

The following provisions of law are repealed:

(1) Section 222 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 613; 10 U.S.C. 2431 note).

(2) Section 225 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 614).

(3) Section 226 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1057; 10 U.S.C. 2431 note).

(4) Section 8123 of the Department of Defense Appropriations Act, 1989 (Public Law 100–463; 102 Stat. 2270–40).

(5) Section 8133 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1211).

(6) Section 234 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note).

(7) Section 242 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1603; 10 U.S.C. 2431 note).

(8) Section 235 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2701; 10 U.S.C. 221 note).

(9) Section 2609 of title 10, United States Code.

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TITLE III—OPERATION AND MAINTENANCE

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * *

(15) For Drug Interdiction and Counter-drug Activities, Defense-wide, $680,432,000.

* * *

(18) For Cooperative Threat Reduction programs, $300,000,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $50,000,000.

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SUBTITLE G—OTHER MATTERS

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SEC. 379. REPORT ON DEPARTMENT OF DEFENSE MILITARY AND CIVIL DEFENSE PREPAREDNESS TO RESPOND TO EMERGENCIES RESULTING FROM A CHEMICAL, BIOLOGICAL, RADIOLOGICAL, OR NUCLEAR ATTACK.

(a) REPORT.—(1) Not later than March 1, 1996, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on the military and civil defense plans and programs of the Department of Defense to prepare for and respond to the effects of an emergency in the United States resulting from a chemical, biological, radiological, or nuclear attack on the United States (hereinafter in this section referred to as an "attack-related civil defense emergency").

(2) The report shall be prepared in consultation with the Director of the Federal Emergency Management Agency.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for and responding to an attack-related civil defense emergency arising from an attack of a type for which the Department of Defense has a primary responsibility to respond.

(2) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for and providing a response to an attack-related civil defense emergency arising from an attack of a type for which the Department of Defense has responsibility to provide a supporting response.

(3) A description of any actions, and any recommended legislation, that the Secretaries consider necessary for improving the preparedness of the Department of Defense to respond effectively to an attack-related civil defense emergency.

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TITLE X—GENERAL PROVISIONS

SUBTITLE A—FINANCIAL MATTERS

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SEC. 1004. OPERATION PROVIDE COMFORT.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Provide Comfort—

(1) $136,300,000 for operation and maintenance costs; and

(2) $7,000,000 for incremental military personnel costs.

(b) REPORT.—Not more than $70,000,000 of the amount appropriated under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees a report on Operation Provide Comfort which includes the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for Operation Provide Comfort during fiscal year 1996, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during that fiscal year.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to Operation Provide Comfort during fiscal year 1996.

(3) A discussion of available options to reduce the involvement of the Department of Defense in those aspects of Operation Provide Comfort that are not directly related to the military mission of the Department of Defense.

(4) A plan establishing an exit strategy for United States involvement in, and support for, Operation Provide Comfort.

(c) OPERATION PROVIDE COMFORT.—For purposes of this section, the term "Operation Provide Comfort" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

SEC. 1005. OPERATION ENHANCED SOUTHERN WATCH.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Enhanced Southern Watch—

(1) $433,400,000 for operation and maintenance costs; and

(2) $70,400,000 for incremental military personnel costs.

(b) REPORT.—(1) Of the amounts specified in subsection (a), not more than $250,000,000 may be obligated until the Secretary of Defense submits to the congressional defense committees a report designating Operation Enhanced Southern Watch, or significant elements thereof, as a forward presence operation for which funding should be budgeted as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(2) The report shall set forth the following:

(A) The expected duration and annual costs of the various elements of Operation Enhanced Southern Watch.

(B) Those elements of Operation Enhanced Southern Watch that are semi-permanent in nature and should be budgeted in the future as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(C) The political and military objectives associated with Operation Enhanced Southern Watch.

(D) The contributions (both in-kind and actual) by other nations to the costs of conducting Operation Enhanced Southern Watch.

(c) OPERATION ENHANCED SOUTHERN WATCH.—For purposes of this section, the term "Operation Enhanced Southern Watch" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

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SEC. 1008. AUTHORIZATION REDUCTIONS TO REFLECT SAVINGS FROM REVISED ECONOMIC ASSUMPTIONS.

(a) REDUCTION.—The total amount authorized to be appropriated in titles I, II, and III of this Act is hereby reduced by $832,000,000 to reflect savings from revised economic assumptions. Such reduction shall be made from accounts in those titles as follows: * * *

Drug Interdiction and Counter-Drug Activities, Defense, $5,000,000.

* * *

Overseas Humanitarian, Disaster, and Civic Aid, $1,000,000.

Former Soviet Union Threat Reduction, $2,000,000.

(b) REDUCTIONS TO BE APPLIED PROPORTIONALLY.—Reductions under this section shall be applied proportionally to each budget activity, activity group, and subactivity group and to each program, project, and activity within each account.

SUBTITLE B—NAVAL VESSELS AND SHIPYARDS

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SEC. 1012. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The Secretary of the Navy is authorized to transfer on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Bahrain, the guided missile frigate Jack Williams (FFG 24).

(2) To the Government of Egypt, the frigate Copeland (FFG 25).

(3) To the Government of Turkey, the frigates Clifton Sprague (FFG 16) and Antrim (FFG 20).

(b) TRANSFERS BY LEASE OR SALE.—The Secretary of the Navy is authorized to transfer on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796) or on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Egypt, the frigate Duncan (FFG 10).

(2) To the Government of Oman, the guided missile frigate Mahlon S. Tisdale (FFG 27).

(3) To the Government of Turkey, the frigate Flatley (FFG 21).

(4) To the Government of the United Arab Emirates, the guided missile frigate Gallery (FFG 26).

(c) FINANCING FOR TRANSFERS BY LEASE.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763) may be used to provide financing for any transfer by lease under subsection (b) in the same manner as if such transfer were a procurement by the recipient nation of a defense article.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by subsection (a) or (b) shall be charged to the recipient.

(e) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) and under subsection (b) shall expire at the end of the two-year period beginning on the date of the enactment of this Act, except that a lease entered into during that period under any provision of subsection (b) may be renewed.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) PROHIBITION ON CERTAIN TRANSFERS OF VESSELS ON GRANT BASIS.—(1) Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j)[10] is amended by adding at the end the following new subsection: * * *

(2) The amendment made by paragraph (1) shall apply with respect to the transfer of a vessel on or after the date of the enactment of this Act (other than a vessel the transfer of which is authorized by subsection (a) or by law before the date of the enactment of this Act).

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[10] See *Legislation on Foreign Relations Through 1997*, vol. I–A.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION [11]

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TITLE XIII—MATTERS RELATING TO OTHER NATIONS

SUBTITLE A—PEACEKEEPING PROVISIONS

SEC. 1301. LIMITATION ON USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED STATES SHARE OF COSTS OF UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by inserting after section 404 the following new section: [12]

SUBTITLE B—HUMANITARIAN ASSISTANCE PROGRAMS

SEC. 1311. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) COVERED PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by sections 401, 402, 404, 2547, and 2551 of title 10, United States Code.

(b) GAO REPORT.—Not later than March 1, 1996, the Comptroller General of the United States shall provide to the congressional defense committees a report on—

(1) existing funding mechanisms available to cover the costs associated with the Overseas Humanitarian, Disaster, and Civic Assistance activities through funds provided to the Department of State or the Agency for International Development, and

(2) if such mechanisms do not exist, actions necessary to institute such mechanisms, including any changes in existing law or regulations.

SEC. 1312.[13] HUMANITARIAN ASSISTANCE. * * *

SEC. 1313.[14] LANDMINE CLEARANCE PROGRAM. * * *

(c) REPEAL.—Section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2913; 10 U.S.C. 401 note) is repealed.

SUBTITLE C—ARMS EXPORTS AND MILITARY ASSISTANCE

SEC. 1321. DEFENSE EXPORT LOAN GUARANTEES.

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 148 of title 10, United States Code, is amended by adding at the end the following new subchapter: [15]

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(b) [16] REPORT.—Not later than two years after the date of the enactment of this Act, the President shall submit to Congress a re-

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[11] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.
[12] This section added a new sec. 405 to 10 U.S.C. See page 389.
[13] See page 434 for 10 U.S.C. 2551, as amended by sec. 1312.
[14] See page 384 for 10 U.S.C. 401, as amended by sec. 1313(a) and (b).
[15] See page 431 for 10 U.S.C. 2540–2540d, as added by sec. 1321(a)(1).
[16] 10 U.S.C. 2540 note.

port on the loan guarantee program established pursuant to section 2540 of title 10, United States Code, as added by subsection (a). The report shall include—

(1) an analysis of the costs and benefits of the loan guarantee program; and

(2) any recommendations for modification of the program that the President considers appropriate, including—

(A) any recommended addition to the list of countries for which a guarantee may be issued under the program; and

(B) any proposed legislation necessary to authorize a recommended modification.

(c) FIRST YEAR COSTS.—The Secretary of Defense shall make available, from amounts appropriated to the Department of Defense for fiscal year 1996 for operations and maintenance, such amounts as may be necessary, not to exceed $500,000, for the expenses of the Department of Defense during fiscal year 1996 that are directly attributable to the administration of the defense export loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code, as added by subsection (a).

(d) REPLENISHMENT OF OPERATIONS AND MAINTENANCE ACCOUNTS FOR FIRST YEAR COSTS.—The Secretary of Defense shall, using funds in the special account referred to in section 2540c(d) of title 10, United States Code (as added by subsection (b)), replenish operations and maintenance accounts for amounts expended from such accounts for expenses referred to in subsection (c).

SEC. 1322.[17] NATIONAL SECURITY IMPLICATIONS OF UNITED STATES EXPORT CONTROL POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Export controls remain an important element of the national security policy of the United States.

(2) It is in the national security interest that United States export control policy be effective in preventing the transfer, to potential adversaries or combatants of the United States, of technology that threatens the national security or defense of the United States.

(3) It is in the national security interest that the United States monitor aggressively the export of militarily critical technology in order to prevent its diversion to potential adversaries or combatants of the United States.

(4) The Department of Defense relies increasingly on commercial and dual-use technologies, products, and processes to support United States military capabilities and economic strength.

(5) The maintenance of the military advantage of the United States depends on effective export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

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

(1) the Secretary of Defense should evaluate license applications for the export of militarily critical commodities the export of which is controlled for national security reasons if those commodities are to be exported to certain countries of concern;

[17] 50 U.S.C. app. 2404 note.

(2) the Secretary of Defense should identify the dual-use items and technologies that are critical to the military capabilities of the Armed Forces, including the military use made of such items and technologies;

(3) upon identification by the Secretary of Defense of the dual-use items and technologies referred to in paragraph (2), the President should ensure effective export controls or use unilateral export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces (regardless of the availability of such items or technologies overseas) with respect to the countries that—

(A) pose a threat to the national security interests of the United States; and

(B) are not members in good standing of bilateral or multilateral agreements to which the United States is a party on the use of such items and technologies; and

(4) the President, upon recommendation of the Secretary of Defense, should ensure effective controls on the re-export by other countries of dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

(c) ANNUAL REPORT.—(1) Not later than December 1 of each year through 1999, the President shall submit to the committees specified in paragraph (4) a report on the effect of the export control policy of the United States on the national security interests of the United States.

(2) The report shall include the following:

(A) A list setting forth each country determined by the Secretary of Defense, the intelligence community, and other appropriate agencies to be a rogue nation or potential adversary or combatant of the United States.

(B) For each country so listed, a list of—

(i) the categories of items that the United States currently prohibits for export to the country;

(ii) the categories of items that may be exported from the United States with an individual license, and in such cases, any licensing conditions normally required and the policy grounds used for approvals and denials; and

(iii) the categories of items that may be exported under a general license designated "G-DEST".

(C) For each category of items listed under subparagraph (B)—

(i) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed pursuant to an international multilateral agreement or is unilateral;

(ii) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed by the other members of an international agreement or is unilateral;

(iii) when the answer under either clause (i) or clause (ii) is unilateral, a statement concerning the efforts being made to ensure that the prohibition, control, or licensing requirement is made multilateral; and

(iv) a statement on what impact, if any, a unilateral prohibition is having, or would have, on preventing the rogue nation or potential adversary from attaining the items in question for military purposes.

(D) A description of United States policy on sharing satellite imagery that has military significance and a discussion of the criteria for determining the imagery that has that significance.

(E) A description of the relationship between United States policy on the export of space launch vehicle technology and the Missile Technology Control Regime.

(F) An assessment of United States efforts to support the inclusion of additional countries in the Missile Technology Control Regime.

(G) An assessment of the ongoing efforts made by potential participant countries in the Missile Technology Control Regime to meet the guidelines established by the Missile Technology Control Regime.

(H) A discussion of the history of the space launch vehicle programs of other countries, including a discussion of the military origins and purposes of such programs and the current level of military involvement in such programs.

(3) The President shall submit the report in unclassified form, but may include a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

(5) For purposes of this subsection, the term "Missile Technology Control Regime" means the policy statement announced on April 16, 1987, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan to restrict sensitive missile-relevant transfers based on the Missile Technology Control Regime Annex, and any amendment thereto.

SEC. 1323.[17] DEPARTMENT OF DEFENSE REVIEW OF EXPORT LICENSES FOR CERTAIN BIOLOGICAL PATHOGENS.

(a) DEPARTMENT OF DEFENSE REVIEW.—Any application to the Secretary of Commerce for a license for the export of a class 2, class 3, or class 4 biological pathogen to a country identified to the Secretary under subsection (c) as a country that is known or suspected to have a biological weapons program shall be referred to the Secretary of Defense for review. The Secretary of Defense shall notify the Secretary of Commerce within 15 days after receipt of an application under the preceding sentence whether the export of such biological pathogen pursuant to the license would be contrary to the national security interests of the United States.

(b) DENIAL OF LICENSE IF CONTRARY TO NATIONAL SECURITY INTEREST.—A license described in subsection (a) shall be denied by the Secretary of Commerce if it is determined that the export of such biological pathogen to that country would be contrary to the national security interests of the United States.

(c) IDENTIFICATION OF COUNTRIES KNOWN OR SUSPECTED TO HAVE A PROGRAM TO DEVELOP OFFENSIVE BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall determine, for the purposes of

this section, those countries that are known or suspected to have a program to develop offensive biological weapons. Upon making such determination, the Secretary shall provide to the Secretary of Commerce a list of those countries.

(2) The Secretary of Defense shall update the list under paragraph (1) on a regular basis. Whenever a country is added to or deleted from such list, the Secretary shall notify the Secretary of Commerce.

(3) Determination under this subsection of countries that are known or suspected to have a program to develop offensive biological weapons shall be made in consultation with the Secretary of State and the intelligence community.

(d) DEFINITION.—For purposes of this section, the term ''class 2, class 3, or class 4 biological pathogen'' means any biological pathogen that is characterized by the Centers for Disease Control as a class 2, class 3, or class 4 biological pathogen.

SEC. 1324.[17] ANNUAL REPORTS ON IMPROVING EXPORT CONTROL MECHANISMS AND ON MILITARY ASSISTANCE.

(a) JOINT REPORTS BY SECRETARIES OF STATE AND COMMERCE.—Not later than April 1 of each of 1996 and 1997, the Secretary of State and the Secretary of Commerce shall submit to Congress a joint report, prepared in consultation with the Secretary of Defense, relating to United States export-control mechanisms. Each such report shall set forth measures to be taken to strengthen United States export-control mechanisms, including—

(1) steps being taken by each Secretary (A) to share on a regular basis the export licensing watchlist of that Secretary's department with the other Secretary, and (B) to incorporate the export licensing watchlist data received from the other Secretary into the watchlist of that Secretary's department;

(2) steps being taken by each Secretary to incorporate into the watchlist of that Secretary's department similar data from systems maintained by the Department of Defense and the United States Customs Service; and

(3) a description of such further measures to be taken to strengthen United States export-control mechanisms as the Secretaries consider to be appropriate.

(b) REPORTS BY INSPECTORS GENERAL.—(1) Not later than April 1 of each of 1996 and 1997, the Inspector General of the Department of State and the Inspector General of the Department of Commerce shall each submit to Congress a report providing that official's evaluation of the effectiveness during the preceding year of the export licensing watchlist screening process of that official's department. The reports shall be submitted in both a classified and unclassified version.

(2) Each report of an Inspector General under paragraph (1) shall (with respect to that official's department)—

(A) set forth the number of export licenses granted to parties on the export licensing watchlist;

(B) set forth the number of end-use checks performed with respect to export licenses granted to parties on the export licensing watchlist the previous year;

(C) assess the screening process used in granting an export license when an applicant is on the export licensing watchlist; and

(D) assess the extent to which the export licensing watchlist contains all relevant information and parties required by statute or regulation.

(c) ANNUAL MILITARY ASSISTANCE REPORT.—The Foreign Assistance Act of 1961 is amended by inserting after section 654 (22 U.S.C. 2414) the following new section:

"SEC. 655. ANNUAL REPORT ON MILITARY ASSISTANCE, MILITARY EXPORTS, AND MILITARY IMPORTS. * * *[18]

SEC. 1325. REPORT ON PERSONNEL REQUIREMENTS FOR CONTROL OF TRANSFER OF CERTAIN WEAPONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to the committees of Congress referred to in subsection (c) of section 1154 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1761) the report required under subsection (a) of that section. The Secretary of Defense and the Secretary of Energy shall include with the report an explanation of the failure of such Secretaries to submit the report in accordance with such subsection (a) and with all other previous requirements for the submittal of the report.

SUBTITLE D—BURDENSHARING AND OTHER COOPERATIVE ACTIVITIES INVOLVING ALLIES AND NATO

SEC. 1331. ACCOUNTING FOR BURDENSHARING CONTRIBUTIONS.

(a) AUTHORITY TO MANAGE CONTRIBUTIONS IN LOCAL CURRENCY, ETC.—Subsection (b) of section 2350j of title 10, United States Code, is amended to read as follows:[19]

SEC. 1332. AUTHORITY TO ACCEPT CONTRIBUTIONS FOR EXPENSES OF RELOCATION WITHIN HOST NATION OF UNITED STATES ARMED FORCES OVERSEAS.

(a) IN GENERAL.—(1) Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section: * * *[20]

(b)[21] EFFECTIVE DATE.—Section 2350k of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply to contributions for relocation of elements of the Armed Forces in or to any nation received on or after such date.

SEC. 1333. REVISED GOAL FOR ALLIED SHARE OF COSTS FOR UNITED STATES INSTALLATIONS IN EUROPE.

Section 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) is amended—

(1) by inserting "(1)" after "so that"; and

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[18] See *Legislation on Foreign Relations Through 1997*, vol. I–A.
[19] See page 420 for 10 U.S.C. 2350j, as amended.
[20] Sec. 1332(a) added a new sec. 2350k to 10 U.S.C. For text, see page 421.
[21] 10 U.S.C. 2350k note.

(2) by inserting before the period at the end the following: ", and (2) by September 30, 1997, those nations have assumed 42.5 percent of such costs".

SEC. 1334. EXCLUSION OF CERTAIN FORCES FROM EUROPEAN END STRENGTH LIMITATION.

(a) EXCLUSION OF MEMBERS PERFORMING DUTIES UNDER MILITARY-TO-MILITARY CONTACT PROGRAM.—Paragraph (3) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is amended to read as follows:

"(3) For purposes of this subsection, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO:

"(A) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

"(B) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.".

SEC. 1335. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

Section 2350b(e) of title 10, United States Code, is amended— * * *[22]

SEC. 1336. SUPPORT SERVICES FOR THE NAVY AT THE PORT OF HAIFA, ISRAEL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should promptly seek to undertake such actions as are necessary—

(1) to ensure that suitable port services are available to the Navy at the Port of Haifa, Israel; and

(2) to ensure the availability to the Navy of suitable services at that port in light of the continuing increase in commercial activities at the port.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report on the availablity[23] of port services for the Navy in the eastern Mediterranean Sea region. The report shall specify—

(1) the services required by the Navy when calling at the port of Haifa, Israel; and

(2) the availability of those services at ports elsewhere in the region.

SUBTITLE E—OTHER MATTERS

SEC. 1341. PROHIBITION ON FINANCIAL ASSISTANCE TO TERRORIST COUNTRIES.

(a) PROHIBITION.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following: * * *[24]

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[22] Sec. 1335 amended 10 U.S.C. 2350b(e); for amended text see page 411.

[23] As enrolled.

[24] Sec. 1341(a) added a new sec. 2249a to 10 U.S.C. For text, see page 396. Sec. 1341(b) made a clerical amendment to the table of sections of 10 U.S.C.

SEC. 1342.[25] JUDICIAL ASSISTANCE TO THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA AND TO THE INTERNATIONAL TRIBUNAL FOR RWANDA.

(a) SURRENDER OF PERSONS.—

(1) APPLICATION OF UNITED STATES EXTRADITION LAWS.—Except as provided in paragraphs (2) and (3), the provisions of chapter 209 of title 18, United States Code, relating to the extradition of persons to a foreign country pursuant to a treaty or convention for extradition between the United States and a foreign government, shall apply in the same manner and extent to the surrender of persons, including United States citizens, to—

(A) the International Tribunal for Yugoslavia, pursuant to the Agreement Between the United States and the International Tribunal for Yugoslavia; and

(B) the International Tribunal for Rwanda, pursuant to the Agreement Between the United States and the International Tribunal for Rwanda.

(2) EVIDENCE ON HEARINGS.—For purposes of applying section 3190 of title 18, United States Code, in accordance with paragraph (1), the certification referred to in that section may be made by the principal diplomatic or consular officer of the United States resident in such foreign countries where the International Tribunal for Yugoslavia or the International Tribunal for Rwanda may be permanently or temporarily situated.

(3) PAYMENT OF FEES AND COSTS.—(A) The provisions of the Agreement Between the United States and the International Tribunal for Yugoslavia and of the Agreement Between the United States and the International Tribunal for Rwanda shall apply in lieu of the provisions of section 3195 of title 18, United States Code, with respect to the payment of expenses arising from the surrender by the United States of a person to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda, respectively, or from any proceedings in the United States relating to such surrender.

(B) The authority of subparagraph (A) may be exercised only to the extent and in the amounts provided in advance in appropriations Acts.

(4) NONAPPLICABILITY OF THE FEDERAL RULES.—The Federal Rules of Evidence and the Federal Rules of Criminal Procedure do not apply to proceedings for the surrender of persons to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda.

(b) ASSISTANCE TO FOREIGN AND INTERNATIONAL TRIBUNALS AND TO LITIGANTS BEFORE SUCH TRIBUNALS.—Section 1782(a) of title 28, United States Code, is amended by inserting in the first sentence after "foreign or international tribunal" the following: ", including criminal investigations conducted before formal accusation".

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

[25] 18 U.S.C. 3181 note.

(1) INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term "International Tribunal for Yugoslavia" means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993.

(2) INTERNATIONAL TRIBUNAL FOR RWANDA.—The term "International Tribunal for Rwanda" means the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

(3) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term "Agreement Between the United States and the International Tribunal for Yugoslavia" means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law in the Territory of the Former Yugoslavia, signed at The Hague, October 5, 1994.

(4) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR RWANDA.—The term "Agreement between the United States and the International Tribunal for Rwanda" means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, signed at The Hague, January 24, 1995.

SEC. 1343. SEMIANNUAL REPORTS CONCERNING UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress a semiannual report on the United States-People's Republic of China Joint Defense Conversion Commission. Each such report shall include the following:

(1) A description of the extent to which the activities conducted in, through, or as a result of the Commission could have directly or indirectly assisted, or may directly or indirectly assist, the military modernization efforts of the People's Republic of China.

(2) A discussion of the activities and operations of the Commission, including—

(A) United States funding;

(B) a listing of participating United States officials;

(C) specification of meeting dates and locations (prospective and retrospective);

(D) summary of discussions; and

(E) copies of any agreements reached.

(3) A discussion of the relationship between the "defense conversion" activities of the People's Republic of China and its defense modernization efforts.

(4) A discussion of the extent to which United States business activities pursued, or proposed to be pursued, under the imprimatur of the Commission, or the importation of western technology in general, contributes to the modernization of China's military industrial base, including any steps taken by the United States or by United States commercial entities to safeguard the technology or intellectual property rights associated with any materials or information transferred.

(5) An assessment of the benefits derived by the United States from its participation in the Commission, including whether or to what extent United States participation in the Commission has resulted or will result in the following:

(A) Increased transparency in the current and projected military budget and doctrine of the People's Republic of China.

(B) Improved behavior and cooperation by the People's Republic of China in the areas of missile and nuclear proliferation.

(C) Increased transparency in the plans of the People's Republic of China's for nuclear and missile force modernization and testing.

(6) Efforts undertaken by the Secretary of Defense to—

(A) establish a list of enterprises controlled by the People's Liberation Army, including those which have been successfully converted to produce products solely for civilian use; and

(B) provide estimates of the total revenues of those enterprises.

(7) A description of current or proposed mechanisms for improving the ability of the United States to track the flow of revenues from the enterprises specified on the list established under paragraph (6)(A).

(b) SUBMITTAL OF REPORTS.—A report shall be submitted under subsection (a) not later than August 1 of each year with respect to the first six months of that year and shall be submitted not later than February 1 of each year with respect to the last six months of the preceding year. The first report under such subsection shall be submitted not less than 60 days after the date of the enactment of this Act and shall apply with respect to the six-month period preceding the date of the enactment of this Act.

(c) FINAL REPORT UPON TERMINATION OF COMMISSION.—Upon the termination of the United States-People's Republic of China Joint Defense Conversion Commission, the Secretary of Defense shall submit a final report under this section covering the period from the end of the period covered by the last such report through the termination of the Commission, and subsection (a) shall cease to apply after the submission of such report.

TITLE XIV—ARMS CONTROL MATTERS[26]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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SUBTITLE C—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

SEC. 3131.[27] AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS.

(a) AUTHORITY.—The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

(b) SEMI-ANNUAL REPORTS ON OBLIGATION OF FUNDS.—(1) Not later than 30 days after the date of the enactment of this Act, and thereafter not later than April 1 and October 1 of each year, the Secretary of Energy shall submit to Congress a report on each obligation during the preceding six months of funds appropriated for a program described in subsection (a).

(2) Each such report shall specify—

(A) the activities and forms of assistance for which the Secretary of Energy has obligated funds;

(B) the amount of the obligation;

(C) the activities and forms of assistance for which the Secretary anticipates obligating funds during the six months immediately following the report, and the amount of each such anticipated obligation; and

(D) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Energy) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Energy has obligated funds referred to in subparagraph (A).

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SUBTITLE D—OTHER MATTERS

SEC. 3151. REPORT ON FOREIGN TRITIUM PURCHASES.

(a) REPORT.—Not later than May 1, 1996, the President shall submit to the congressional defense committees a report on the feasibility of, the cost of, and the policy, legal, and other issues associated with purchasing tritium from various foreign suppliers in order to ensure an adequate supply of tritium in the United States for nuclear weapons.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified appendix.

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[26] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

[27] 22 U.S.C. 5952 note.

SEC. 3152.[28] STUDY ON NUCLEAR TEST READINESS POSTURES.

Not later than February 15, 1996, the Secretary of Energy shall submit to Congress a report on the costs, programmatic issues, and other issues associated with sustaining the capability of the Department of Energy—

(1) to conduct an underground nuclear test 6 months after the date on which the President determines that such a test is necessary to ensure the national security of the United States;

(2) to conduct such a test 18 months after such date; and

(3) to conduct such a test 36 months after such date.

SEC. 3153.[29] * * * [Repealed—1996]

SEC. 3154. PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED.

(a)[30] PROHIBITION ON INSPECTIONS.—(1) The Secretary of Energy may not allow an inspection of a nuclear weapons facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no restricted data will be revealed during such inspection.

(2) For purposes of paragraph (1), the term "restricted data" has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(b) EXTENSION OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.—Section 3155(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3092) is amended by striking out "December 31, 1995" and inserting in lieu thereof "October 1, 1996".

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TITLE XXXV—PANAMA CANAL COMMISSION[31]

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[28] Sec. 3158 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2842) required the Secretary of Energy to submit a second, updated, report not later than June 1, 1997.

[29] Formerly at 42 U.S.C. 2121 note. Sec. 3152(c) of Public Law 105–85 (111 Stat. 2042) repealed sec. 3153, which had required the President to submit a master plan to Congress by March 15, 1996, for the certification, stewardship, and management of warheads in the nuclear weapons stockpile.

[30] 42 U.S.C. 2164 note.

[31] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. G.

g. National Defense Authorization Act for Fiscal Year 1995

Partial text of Public Law 103–337 [S. 2182], 108 Stat. 2663, approved October 5, 1994; amended by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 104–208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

NOTE.—Secs. 1006 and 1007 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 419) provided the following:

"SEC. 1006. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.

"(a) AUTHORITY.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1995 defense appropriations.

"(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1995 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1995 defense authorizations.

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

"(1) FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.—The term 'fiscal year 1995 defense appropriations' means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1995 in the Department of Defense Appropriations Act, 1995 (Public Law 103–335).

"(2) FISCAL YEAR 1995 DEFENSE AUTHORIZATIONS.—The term 'fiscal year 1995 defense authorizations' means amounts authorized to be appropriated for the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

"SEC. 1007. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1995.

"(a) ADJUSTMENT TO PREVIOUS AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in title I of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6; 109 Stat. 73).

"(b) NEW AUTHORIZATION.—The appropriation provided in section 104 of such Act (109 Stat. 79) is hereby authorized.".

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

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SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $599,549,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operations and maintenance;

(2) $215,265,000 is for procurement; and

(3) $20,700,000 is for research and development efforts in support of the chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Secretary of Defense may obligate funds appropriated for research, development, test, and evaluation of alternative technologies under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436).

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) POLICY.—(1) It is in the Nation's long-term national security and economic interests to regain preeminence in the area of space launch technology and operations.

(2) Access to space at affordable costs is fundamental to maintaining required command, control, communications, intelligence, navigation, weather, and early warning support to United States and coalition forces.

(3) Encouragement of privately financed, cost effective expendable and reusable launch vehicles is in the economic interest of the Department of Defense and the United States Government.

(b) FINDING.—Congress finds that the current Department of Defense space launch infrastructure has several deficiencies, including high cost, excessive management overhead, inadequate operability and responsiveness to satellite launch requirements, lack of standardization, very large launch personnel requirements to support launch operations, over capacity, and technology obsolescence.

(c) REQUIRED ACTIONS.—The Secretary of Defense shall take the following actions in pursuance of the space launch modernization

policy set forth in subsection (a) and to correct the deficiencies described in subsection (b):

(1) Develop an integrated space launch vehicle strategy that, if implemented, would replace or consolidate the current fleet of medium and heavy launch vehicles. Where prudent and cost effective, the strategy should include a plan for the development of new or upgraded expendable launch vehicles.

(2) Implement improved management practices including streamlined acquisition approaches, small government program staff, and minimal program overhead.

(3) Encourage and evaluate innovative acquisition, technical, and financing (including best commercial practices) solutions for providing affordable, operable, reliable, and responsive access to space.

(4) Centralize oversight of launch requirements to ensure integrated evaluation of satellite requirements and launch capabilities.

(5) Encourage and provide incentives for the use of commercial practices in the acquisition, operation, and support of Department of Defense space operations.

(6) Establish effective coordination among military, civilian, and commercial launch developers and users.

(d) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated in section 201(3), $90,000,000 shall be available for research, development, test, and evaluation of non-man-rated space launch systems and technologies. Of that amount—

(1) $30,000,000 shall be available for a competitive reusable rocket technology program; and

(2) $60,000,000 shall be available for expendable launch vehicle technology development and acquisition, as appropriate.

(e) TRANSFER OF FUNDS.—The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the Department of the Air Force the unobligated balance of funds appropriated for fiscal year 1994 to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

(f) PROGRAM PLAN.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall develop a plan to coordinate the programs of the Department of Defense and the National Aeronautics and Space Administration for expendable and reusable rocket technology demonstrators and technology development. The Secretary of Defense shall submit to Congress the plan developed under this subsection.

(g) LIMITATIONS.—(1) Funds authorized for appropriation in subsection (d)(1) may be obligated only—

(A) to the extent that the fiscal year 1995 current operating plan of the National Aeronautics and Space Administration allocates at least an equal amount for its Reusable Space Launch program; and

(B) as specified in the program plan developed and submitted to Congress pursuant to subsection (f).

(2) Not more than $30,000,000 of the funds authorized in subsection (d)(2) may be obligated until 30 days after the Secretary of Defense submits to Congress program plans, including objectives,

milestones, future years defense program funding, and government-industry cost sharing considerations, as applicable.

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SEC. 221. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has submitted to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

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SUBTITLE C—MISSILE DEFENSE PROGRAMS

SEC. 231.[2] COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

(a) GENERAL LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1995, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1995 or for any fiscal year before 1995, may not be obligated or expended—

(1) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter; or

(2) for the acquisition of any material or equipment (including long lead materials, components, piece parts, or test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(b) LIMITATION RELATING TO BRILLIANT EYES.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 that are made available for the space-based, midcourse missile tracking system known as the Brilliant Eyes program, not more than $80,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review conducted pursuant to subsection (c).

(c) COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the Brilliant Eyes program to determine whether, and under what conditions, the development, testing, and deployment of the Brilliant Eyes missile tracking system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems,

[2] 10 U.S.C. 2431 note.

would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(d) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) The Secretary of Defense shall review the theater ballistic missile program known as the Navy Upper Tier program to determine whether the development, testing, and deployment of the system being developed under that program would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(2) Of the funds made available to the Department of Defense for fiscal year 1995, not more than $40,000,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review under paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

(2) The term "ABM Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

(3) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs,[3] and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 232. MODIFICATIONS TO ANTI-BALLISTIC MISSILE TREATY TO BE ENTERED INTO ONLY THROUGH TREATY MAKING POWER.

(a) REQUIREMENT FOR USE OF TREATY MAKING POWER.—The United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

[3] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

SEC. 233.[4] REVISIONS TO THE MISSILE DEFENSE ACT OF 1991. * * *

SEC. 234. LIMITATION ON FLIGHT TESTS OF CERTAIN MISSILES.

(a) LIMITATION.—The Secretary of Defense may not conduct the launch of a target ballistic missile as part of the theater missile defense extended range test program if an anticipated result of the launch of that target missile under that test program would be release of debris in a land area of the United States outside a designated Department of Defense test range or an extension thereof in force as of July 1, 1994.

(b) DEFINITION OF DEBRIS.—For purposes of subsection (a), the term "debris" does not include particulate matter that is regulated for considerations of air quality.

(c) CERTAIN TESTING UNAFFECTED.—Nothing in this section shall be construed as prohibiting or limiting testing of cruise missiles, unmanned aerial vehicles (UAVs), or precision-guided munitions.

(d) EXPIRATION OF LIMITATION.—The limitation in subsection (a) shall expire on the later of—

(1) June 30, 1995; or

(2) the end of the 30-day period beginning on the date of the publication by the Secretary of Defense of the Final Environmental Impact Statement on the Theater Missile Defense Extended Test Range.

SEC. 235.[5] * * * [Repealed—1996]

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TITLE X—GENERAL PROVISIONS

SUBTITLE A—FINANCIAL MATTERS

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SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEAR 1994.

(a) AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—Funds appropriated to the Department of Defense for fiscal year 1994 in chapter 3 of title I of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211; 108 Stat. 5) for the purposes stated in section 302 of such Act (108 Stat. 7), relating to the incremental and associated costs of the Department of Defense incurred in connection with ongoing United States operations relating to Somalia, Bosnia, Southwest Asia, and Haiti, are hereby authorized in amounts as follows:

(1) For Military Personnel:

(A) For the Army, $6,600,000.

(B) For the Navy, $19,400,000.

(C) For the Air Force, $18,400,000.

(2) For Operation and Maintenance:

(A) For the Army, $420,100,000.

(B) For the Navy, $104,800,000.

(C) For the Air Force, $560,100,000.

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[4] The Missile Defense Act of 1991 was repealed in 1996.

[5] Formerly at 10 U.S.C. 221 note. Sec. 253(8) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 235) repealed sec. 235, which had stated program elements for the Ballistic Missile Defense Organization.

(D) For Defense-wide activities, $21,600,000.

(3) For Procurement:

(A) For Aircraft Procurement, Army, $20,300,000.

(B) For Other Procurement, Army, $200,000.

(C) For Other Procurement, Air Force, $26,800,000.

(b) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR RELIEF OF RWANDA REFUGEES.—There is authorized to be appropriated to the Emergency Response Fund, Defense, as emergency supplemental appropriations for fiscal year 1994 the sum of $270,000,000 to be used to reimburse appropriations of the Department of Defense for costs incurred for emergency relief for Rwanda.

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SUBTITLE B—COUNTER-DRUG ACTIVITIES

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SEC. 1012.[6] OFFICIAL IMMUNITY FOR AUTHORIZED EMPLOYEES AND AGENTS OF THE UNITED STATES AND FOREIGN COUNTRIES ENGAGED IN INTERDICTION OF AIRCRAFT USED IN ILLICIT DRUG TRAFFICKING.

(a) EMPLOYEES AND AGENTS OF FOREIGN COUNTRIES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country (including members of the armed forces of that country) to interdict or attempt to interdict an aircraft in that country's territory or airspace if—

(1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and

(2) the President of the United States, before the interdiction occurs, has determined with respect to that country that—

(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and

(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.

(b) EMPLOYEES AND AGENTS OF THE UNITED STATES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of the United States (including members of the Armed Forces of the United States) to provide assistance for the interdiction actions of foreign countries authorized under subsection (a). The provision of such assistance shall not give rise to any civil action seeking money damages or any other form

[6] 22 U.S.C. 2291–4.

On December 1, 1994, the President issued a determination "with respect to Colombia that: (a) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (b) that country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft." (Presidential Determination No. 95–7; 59 F.R. 64835).

A similar determination was issued relating to Peru on December 8, 1994 (Presidential Determination No. 95–9; 59 F.R. 65231).

of relief against the United States or its employees or agents (including members of the Armed Forces of the United States).

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

(1) The terms "interdict" and "interdiction", with respect to an aircraft, mean to damage, render inoperative, or destroy the aircraft.

(2) The term "illicit drug trafficking" means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances, as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(3) The term "assistance" includes operational, training, intelligence, logistical, technical, and administrative assistance.

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SUBTITLE D—POW/MIA MATTERS

SEC. 1031. ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "unaccounted-for Korean conflict POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(2) The term "unaccounted-for Cold War POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(3) The term "Korean conflict" has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1032. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the Secretary's recommendations as to whether those provisions of law should be amended.

(c) CONSULTATION.—The review under subsection (a) shall be carried out in consultation with the Secretaries of the military departments.

SEC. 1033. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate, in its final report, dated January 13, 1993, concluded—

(A) that "many American POWs had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials"; and

(B) that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POWs from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in that report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1034. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

(a) REQUIREMENT.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the information specified in subsection (b) pertaining to United States personnel involved in the Vietnam conflict who remain not accounted for.

(b) REQUIRED INFORMATION.—The information to be provided in the report under subsection (a) is as follows:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1035. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall, at the end of January and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who re-

main not accounted for and to obtain from North Korea any remains of such personnel.

(c) COMMISSION.—The President shall give serious consideration to establishing a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

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SEC. 1036. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, THE VIETNAM ERA, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note)[7] is amended—* * *

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SUBTITLE G—OTHER MATTERS

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SEC. 1073. SENSE OF CONGRESS CONCERNING VISAS FOR HIGH-LEVEL OFFICIALS OF TAIWAN.

It is the sense of Congress that no visa should be denied for a high-level official of Taiwan to enter the United States unless the official is otherwise inadmissible[8] under the immigration laws of the United States.

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TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION[9]

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TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

SUBTITLE A—MATTERS RELATING TO NATO

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SEC. 1302. NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against

[7] For text, see page 700.

[8] Sec. 308(d)(3)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out "excludable" and inserted in lieu thereof "inadmissible".

[9] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history and is well suited to help marshal cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members, and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to crises outside the alliances's self-defense area.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) It is critical that the security interests of the member countries of the North Atlantic Treaty Organization not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

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

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1303. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note),[10] is amended to read as follows: * * *

(b)[10] EXCLUSION OF CERTAIN ISLAND-BASED TROOPS IN CALCULATION OF AUTHORIZED END STRENGTH.—Such section is further amended by adding at the end the following new paragraph: * * *

(c) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 1304. ALLIED SHARE OF INSTALLATIONS COSTS.

(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that (1)[11] by September 30, 1996, those nations have assumed 37.5 percent of such costs, and (2) by September 30, 1997, those nations have assumed 42.5 percent of such costs.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

(2) The term "contributions", with respect to the share of such nonpersonnel costs assumed by the European member nations of NATO, means those cash and in-kind contributions made by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

SEC. 1305. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength overseas, the Department of Defense plans to close, or reduce United States military presence at, 867 military sites outside the United States.

(3) Most of the military sites outside the United States announced for closure are in Europe, where the United States has already closed 434 such sites while carrying out a reduc-

[10] For amended text, see page 882.

[11] Sec. 1333 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 484) inserted clause designation "(1)" and added clause (2).

tion in troop strength in Europe from 323,432 in 1987 to approximately 100,000 by the end of fiscal year 1996.

(4) When the United States closes military sites in Europe, it leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some of the European NATO allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, most of which was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in those facilities.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure in NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects that are identified priorities of the Department of Defense.

(c) * * *

SEC. 1306. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses

of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1307. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries that are participating in the Partnership for Peace and are making significant progress in working with the North Atlantic Treaty Organization:

(1) Defense articles and services, as defined in the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(2) Loan of materials, supplies, and equipment for research and development purposes.

(3) Leases and loans of major defense equipment and other defense articles.

(4) Cooperative military airlift agreements.

(5) The procurement of communications support and related supplies and services.

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

SUBTITLE B—MATTERS RELATING TO SEVERAL COUNTRIES

SEC. 1311. LIMITATION ON OBLIGATION OF FUNDS FOR OVERSEAS BASING ACTIVITIES.

(a) LIMITATION.—The total amount authorized to be appropriated to the Department of Defense for operation and maintenance and for military construction (including construction and improvement of military family housing) that is obligated to conduct overseas basing activities during fiscal year 1995 may not exceed $8,181,000,000, except to the extent provided by the Secretary of Defense under subsection (b).

(b) EXCEPTION.—The Secretary of Defense may increase the amount of the limitation under subsection (a) by such amount as the Secretary determines to be necessary in the national interest, except that such increase may not exceed $400,000,000. The Secretary may not make any such increase until the Secretary notifies the Congress of the Secretary's intent to make such an increase and a period of 15 days elapses after the day on which the notification is received by the Congress.

(c) ALLOCATIONS OF SAVINGS.—Any amounts appropriated to the Department of Defense for fiscal year 1995 for the purposes covered by subsection (a) that are not available to be used for those purposes by reason of the limitation in that subsection shall be allocated by the Secretary of Defense for operation and maintenance and for military construction activities of the Department of De-

fense at military installations and facilities located inside the United States.

(d) DEFINITION.—In this section, the term "overseas basing activities" has the meaning given such term in section 1401(d)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1825), except that such term does not include activities of the Department of Defense for which funds are provided through appropriations for Military Personnel.

SEC. 1312. CLARIFICATION AND CODIFICATION OF OVERSEAS MILITARY END STRENGTH LIMITATION.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123a the following new section:

"§ 123b. Forces stationed abroad: limitation on number * * *"[12]

(b) EFFECTIVE DATE.—Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.

(c) CONFORMING REPEAL.—Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) is repealed.

SEC. 1313.[13] COST-SHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental costs incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO solely for support of NATO roles and missions.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following:

(1) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO and an analysis of the cost of providing and maintaining such forces in such assignment primarily for support of NATO roles and missions.

(2) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such forces in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military forces in Europe that the United States received from other NATO member nations in the fiscal year covered by the report, set out by country and by type of assist-

[12] For text, see page 370.
[13] 10 U.S.C. 1928 note.

ance, including both in-kind assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year covered by the report.

(d) INCREMENTAL COSTS DEFINED.—For purposes of subsection (a), the definition provided for the term "incremental costs" in section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, as added by subsection (e), shall apply with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO in the same manner as such term applies with respect to permanent stationing ashore of United States forces in foreign nations for purposes of subsection (e)(4) of such section 1046.

(e) DEFINITION FOR REPORTING REQUIREMENT.—Section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1466; 22 U.S.C. 1928 note) is amended by adding at the end the following new subsection:

"(f) INCREMENTAL COSTS DEFINED.—In this section, the term 'incremental costs', with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States.".

SEC. 1314. REPORT ASSESSING THE NATIONAL SECURITY CONSEQUENCES OF UNITED STATES MILITARY COOPERATION PROGRAMS.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report assessing the national security consequences of United States military cooperation programs. The report shall be submitted not later than the date of the submission to Congress of the next annual report of the Secretary of Defense submitted under section 113 of title 10, United States Code, after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A description of cooperative military relationships in effect.

(2) A description of how activities under those relationships are intended to improve United States national security.

(3) An assessment of the risks to the United States associated with engaging in military cooperation programs with foreign countries should the government of any of such country change its political orientation in a manner hostile to United States interests.

(4) An analysis of the effect on United States national security of possible multilateral actions to reduce the military capability of governments and military forces that could pose a future threat to United States interests.

(5) An assessment of any implications for regional security effected by existing cooperative military relationships.

(c) FORM OF REPORT.—The report under subsection (a) shall be submitted in unclassified form and, to the extent necessary, in classified form.

SEC. 1315. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife, but democracy in some nations of the region is fragile.

(2) It is desirable for the Department of Defense to perform a positive role in influencing the defense establishments and military forces of nations in the Western Hemisphere to make positive contributions to the democratic process and to domestic development programs of their respective nations.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051 of that title, participation of developing countries in combined exercises under section 2010 of that title, and the training of special operations forces with friendly forces under section 2011 of that title.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress (including in particular the testimony of the commander of the United States Southern Command and the commander of the United States Atlantic Command) has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) Military-to-military contact programs in the Western Hemisphere provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need for the Secretary of Defense to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need for the Secretary of Defense to conduct a comprehensive review of various programs carried out pursu-

ant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional strategic and foreign policy objectives of the United States, including promotion of sustainable development, effective control of the military by elected civilian authorities, reliable regional security accords, and the appropriate role for militaries in democratic societies.

(11) There is a need for the Secretary of Defense to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REVIEW AND REPORT.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, carry out a comprehensive review and assessment of the matters referred to in paragraphs (2), (9), (10), and (11) of subsection (a); and

(2) submit to Congress a report on the review and assessment carried out pursuant to paragraph (1).

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) The contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, United States strategic objectives, and United States foreign policy objectives as described in paragraph (10) of subsection (a).

(6) United States humanitarian civic assistance and civic action programs conducted with host countries in the region and the effect that those programs have had in furthering the objectives described in paragraph (10) of subsection (a).

(7) The changes made or to be made in the programs, organizations, forums, and institutions referred to in paragraphs (3), (4), (5), and (6) as a result of the comprehensive review.

(d) RECOMMENDED LEGISLATION.—The report shall include any recommendations for legislation that the Secretary considers nec-

essary to improve the ability of the Department to achieve its strategic objectives in the Western Hemisphere.

(e) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1316. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 168. Military-to-military contacts and comparable activities * * *" [14]

(b) FISCAL YEAR 1995 FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 168 of title 10, United States Code, as added by subsection (a).

(c) FISCAL YEAR 1995 ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component described in paragraph (2) shall not be counted (under section 115(a)(1) of title 10, United States Code) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401.

(2) Paragraph (1) applies in the case of a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under section 168 of title 10, United States Code, as added by subsection (a).

(d) REPORT.—Not later than February 15, 1995, the Secretary of Defense shall submit to Congress a report on the management structure of the military-to-military contacts program.

* * * * * * *

SUBTITLE C—MATTERS RELATING TO SPECIFIC COUNTRIES

SEC. 1321. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President has reiterated the long-standing United States commitment to maintaining the qualitative superiority of the Israeli Defense Force over any combination of adversaries.

(2) Congress continues to recognize the many benefits to the United States from its strategic relationship with Israel, including enhancing regional stability and technical cooperation.

(3) Despite the momentous peace process in which Israel and its neighbors are productively engaged, Israel continues to face difficult threats to its national security that are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

[14] For text, see page 374.

(4) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counterproliferation.

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

(1) the President should ensure that any conventional defense system or technology offered for release to any NATO or other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) the President should make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1322. READINESS OF MILITARY FORCES OF THE REPUBLIC OF KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) Under existing security arrangements between the United States and the Republic of Korea, responsibility for the defense of the territory of the Republic of Korea is allocated so that the Republic of Korea has primary responsibility for the ground defense of its territory and the United States has primary responsibility for air and sea defense of the Korean peninsula and for reinforcement.

(2) The Force Improvement Program of the Republic of Korea has not fully addressed critical shortfalls in its ground force capability which continue to exist even though the Republic of Korea spends approximately $12,000,000,000 annually on defense while the Democratic People's Republic of Korea spends approximately $4,000,000,000 annually on defense. The Republic of Korea has directed substantial defense resources to procuring submarines, destroyers, advanced aircraft, and other military systems that are marginal to its primary ground defense responsibility.

(3) The defense acquisition decisions of the Republic of Korea have had the effect of not allowing the Republic of Korea to attain self-sufficiency in its ground defense responsibility. As a result, there exists an undue burden on the United States for the ground defense of the Korean peninsula.

(4) The lack of intelligence capability to forecast the military intentions of the Democratic People's Republic of Korea presents major problems for the combined United States-Republic of Korea defense of South Korea.

(5) A short-warning attack by the Democratic People's Republic of Korea would cause major losses to the combined United States-Republic of Korea ground force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should urge the Republic of Korea to continue to improve its military ground forces with emphasis on counterartillery capabilities, defense against ballistic missiles and weapons of mass destruction, combined United States-Republic of Korea logistics capabilities, combined United States-Republic of Korea medical support, and combined United States-Republic of Korea capabilities for tac-

tical intelligence and indications and warning of a North Korean attack.

(c) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report, in classified form, on—

(1) the readiness of the military forces of the Republic of Korea to defeat an attack by the military forces of the Democratic People's Republic of Korea; and

(2) the adequacy of the defense acquisition strategy of the Republic of Korea to meet its primary ground defense mission.

SEC. 1323. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense conducted the Bottom-Up Review during 1993 to establish the size and structure for the Armed Forces for the Post-Cold-War era.

(2) The report on the Bottom-Up Review cites the need for the Armed Forces to be large enough to prevail in two major regional conflicts "nearly simultaneously".

(3) The report on the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf.

(4) The United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq.

(5) The report on the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, up to 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corps brigades.

(6) The report on the Bottom-Up Review recognizes that approximately 100,000 members of the Armed Forces will be stationed in Europe.

(7) The report on the Bottom-Up Review recognizes that sizeable numbers of United States forces could be involved in peace enforcement and intervention operations at any one time.

(8) The report on the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses.

(9) Military planners calculate that 430,000 or more United States military personnel may be needed to win a war with North Korea begun by an invasion of South Korea by North Korea.

(10) In a worst case scenario, the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of the report on the Bottom-Up Review if the existing and future

force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(11) The Bottom-Up Review was conducted for the purpose of force-sizing and was not meant to constrain operational planning.

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

(1) the force structure identified in the report on the Bottom-Up Review should not be used to limit the size or structure of the force that United States military commanders may request in preparation for a major regional contingency on the Korean peninsula; and

(2) the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

(c) SENSE OF CONGRESS CONCERNING SITUATION ON KOREAN PENINSULA.—It is the sense of Congress that the chairmen and ranking minority members of the Committees on Armed Services and chairmen and ranking minority members of the Appropriations Subcommittees on Defense of the Senate and House of Representatives[15] should receive regular briefings from the Secretary of Defense on the situation on the Korean peninsula.

SEC. 1324. SENSE OF CONGRESS CONCERNING THE NORTH KOREAN NUCLEAR WEAPONS DEVELOPMENT PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Between 1950 and 1953, the United States led a military coalition that successfully repelled an invasion of the Republic of Korea by North Korea, at a cost of more than 54,000 American lives.

(2) The United States and the Republic of Korea ratified a Mutual Security Treaty in 1954 that commits the United States to helping the Republic of Korea defend itself against external aggression.

(3) Approximately 37,000 United States military personnel are presently stationed in the Republic of Korea.

(4) The United States and the Republic of Korea have regularly conducted joint military exercises, including "Team Spirit" exercises.

(5) North Korea has built up an armed force nearly twice the size of that in the Republic of Korea and has not renounced the use of force, terrorism, and subversion in its attempts to subdue and subjugate the Republic of Korea.

(6) Although North Korea signed the Treaty on the Non-Proliferation of Nuclear Weapons in 1985, it has impeded the international inspection of its nuclear facilities that is required of all signatories of that Treaty.

[15] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(7) North Korea's nuclear weapons and ballistic missile programs represent a grave threat to the security of the Korean peninsula and the entire world.

(8) Efforts in recent years by the United States to reduce tensions on the Korean peninsula have included—

(A) the withdrawal of all nuclear weapons from the territory of the Republic of Korea and a reduction in the number of United States military personnel stationed there;

(B) the postponement of the 1994 Team Spirit exercises;

(C) the establishment of direct diplomatic contacts with the North Korean government; and

(D) the offer of expanded diplomatic and economic contacts with North Korea.

(9) Weapons-grade plutonium can be extracted from the fuel rods removed from North Korea's principal reactor at Yongbyon.

(10) International inspectors were not permitted to examine and test in a timely manner spent fuel rods removed from North Korea's principal nuclear reactor at Yongbyon, as required to ensure compliance with North Korea's obligations under the Nuclear Non-Proliferation Treaty.

(11) Diplomacy concerning the North Korean nuclear program has clearly reached a crucial stage, the unsatisfactory resolution of which would place the international nonproliferation regime in jeopardy and threaten the peace and security of the Korean peninsula, the Northeast Asia region, and, by extension, the rest of the world.

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

(1) the announced freeze on the North Korean nuclear program should remain in place until internationally agreed-upon safeguards of any North Korean civilian nuclear program can be made fully effective;

(2) the North Korean government should take a further step toward verified cooperation with the international nonproliferation regime by—

(A) permitting the unfettered international inspection and testing of the spent fuel rods removed from North Korea's nuclear reactor at the Yongbyon nuclear complex, followed by adequate international supervision of the transfer of all spent fuel rods from the Yongbyon complex and their disposal in another country; and

(B) accepting a comprehensive inspection process as required by the Treaty on the Non-Proliferation of Nuclear Weapons;

(3) a resolution of the inspection controversy at the Yongbyon complex that allows for anything less than the full international inspection of facilities in that complex required by North Korea's obligations under the Nuclear Non-Proliferation Treaty—

(A) would be unsatisfactory; and

(B) should prompt the Government of the United States to take such action as would indicate the severity with which the United States views this provocation against international norms; and

(4) such action should include (but not necessarily be limited to)—

(A) the seeking of international sanctions against North Korea; and

(B) the rescheduling of the Team Spirit exercises for 1994.

SEC. 1325. REPORT ON SECURITY RELATIONSHIP BETWEEN THE UNITED STATES AND JAPAN.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of Defense shall submit a report to Congress regarding the security relationship between the United States and Japan.

(b) CONTENT OF REPORT.—The report required by this section shall contain the following:

(1) An evaluation of the security objectives that the United States hopes to achieve in its relationship with Japan.

(2) An analysis of the threats, dangers, and risks to the United States and Japan in the Asia-Pacific region.

(3) An explanation of the United States strategy for achieving its security objectives with Japan and in the Asia-Pacific region.

(4) An evaluation of the role of the United States-Japan Security Treaty in achieving United States security objectives with Japan and in the Asia-Pacific region.

(5) An analysis of the contributions that regional security discussions, consultations, or frameworks could make to the achievement of United States and Japanese security objectives.

(6) A discussion of the process by which the United States and Japan address joint infrastructure matters, such as land and training issues, throughout Japan, including Okinawa.

(7) A description of the United States military facilities in Japan, including Okinawa, that have been transferred to Japan in the previous 10 years.

(8) A description of the contribution that Japan makes to the costs incurred by the United States in stationing military forces in Japan.

(9) A review of the United States military presence in Japan, including Okinawa, that contains the following information:

(A) The number and location of United States personnel.

(B) The number, size, and location of major United States military units.

(C) An inventory and description of the utilization of United States military facilities, including their military, economic, and environmental aspects.

(D) An explanation of the status of discussion between the United States and Japanese governments on joint infrastructure matters.

(E) A description of United States training activities.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

SUBTITLE A—PEACE OPERATIONS

SEC. 1401. REPORTS ON REFORMING UNITED NATIONS PEACE OPERATIONS.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress two reports on proposals by the United States for improving management by the United Nations of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second not later than June 1, 1995.

(b) STATUS OF IMPLEMENTATION OF UNITED STATES PROPOSALS.—Each report shall contain—

(1) a discussion of the status of implementation of proposals by the United States contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(2) an analysis of the results of such implementation.

(c) SUBJECTS TO BE COVERED.—Each report shall cover, at a minimum, the following matters:

(1) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(2) The reasons for lengthy, potentially disastrous delays after a peace operation has been authorized and steps by the United Nations to reduce those delays.

(3) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(4) Assistance by the United States to facilitate improvements by the United Nations in the matters described in paragraphs (1) and (3) and the terms under which such assistance has been or is being provided.

(d) PEACE OPERATION DEFINED.—In this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1402. REPORT ON MILITARY READINESS IMPLICATIONS OF BOSNIA PEACEKEEPING DEPLOYMENT.

(a) REPORT.—(1) The Secretary of Defense shall submit to the congressional defense committees a report assessing the implications for United States military readiness of the participation of United States ground combat forces in peacekeeping operations within Bosnia-Hercegovina.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act or 30 days following the deployment of United States ground forces to Bosnia-Hercegovina, whichever occurs sooner.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An estimate of the total number of forces required to carry out such an operation, including forces required for a rotation base.

(2) An estimate of the expected duration of such an operation.

(3) An estimate of the cost of such an operation, together with an explanation of how the Secretary proposes to provide funds for such an operation and an assessment of how such proposed funding plan would affect overall military readiness.

(4) An assessment of the effect such an operation would have on the ability of the United States Armed Forces to execute successfully the two nearly-simultaneous major regional conflict strategy articulated in the Bottom-Up Review.

(5) An assessment of how readily forces participating in such an operation could be redeployed to a major regional conflict, including an analysis of the availability of strategic lift, the likely condition of equipment, and the extent of retraining necessary to facilitate such a redeployment.

(6) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units designated to be part of the contingency force, including the extent to which contingency force combat units would support the initial deployment and subsequent rotations.

(7) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units not designated to be part of the contingency force, including the extent to which non-contingency force combat units would support the initial deployment and subsequent rotations.

(8) For the initial deployment and subsequent rotations, an assessment of the number and type of combat support and combat service support units required from active forces, including how many of such units are designated to support the deployment of the contingency force.

(9) An assessment of the degree to which such an operation would require the use of reserve component units and personnel and the use and timing of involuntary Selected Reserve call-up authority as provided by section 673b of title 10, United States Code.

(10) An assessment of the anticipated cost of equipment refurbishment resulting from such an operation.

(11) An assessment of how the increased operational tempo associated with such an operation would affect the mission capable readiness rates and overall health of both strategic and theater airlift assets.

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

(1) The term "contingency force" includes—

(A) the set of four or five Army divisions that is designated as the Army contingency force by the Secretary of the Army, as well as Army active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict; and

(B) Air Force, Navy, and Marine Corps active duty and reserve component combat, combat support, and combat

service support units designated to respond to a regional conflict within the first 75 days of such conflict.

(2) The term "Bottom-Up Review" means the October 1993 Department of Defense report entitled "Report on the Bottom-Up Review".

(d) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form and, if necessary, in classified form.

SEC. 1403. REPORT ON INTELLIGENCE LESSONS LEARNED FROM UNITED STATES ACTIVITIES IN SOMALIA.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the intelligence lessons learned from the United States participation in United Nations activities in Somalia.

(b) MATTERS TO BE INCLUDED.—The report shall—

(1) specifically describe the availability of intelligence on forces of other nations and of indigenous forces operating in Somalia before, during, and after the insertion of United States forces; and

(2) set forth a complete review of any intelligence failures, any equipment failures, and any equipment unavailability in the theater.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than 180 days after the date of the enactment of this Act.

SEC. 1404. BOSNIA AND HERCEGOVINA.

(a) PURPOSE.—It is the purpose of this section—

(1) to express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina; and

(2) to establish a process to end the arms embargo on the Government of Bosnia and Hercegovina.

(b) STATEMENT OF SUPPORT.—The Congress supports the efforts of the Contact Group to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina based upon the Contact Group proposal.

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

(1) The United States should work with the member nations of the North Atlantic Treaty Organization and with other permanent members of the United Nations Security Council to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina which maintains the territorial integrity of Bosnia and Hercegovina.

(2) A peaceful settlement of the conflict must preserve an economically, politically, and militarily viable Bosnian state capable of exercising its rights under the Charter of the United Nations as part of a peaceful settlement, which rights include the inherent right of a sovereign state to self defense.

(3) The acceptance of the Contact Group proposal by the Government of Bosnia and Hercegovina should lead to the lifting of the Bosnia arms embargo.

(4) In providing weapons to the Bosnian Government or taking other actions, care should be taken to provide for the safety of the United Nations Protection Force (UNPROFOR) and the

civilian personnel working for the United Nations or non-governmental volunteer organizations.

(5) The United States should immediately seek to organize an international effort to provide assistance to the states bordering Serbia and Montenegro to bring about more effective enforcement by those states of the international economic sanctions on the Government of Serbia and Montenegro.

(d) GENERAL UNITED STATES POLICY.—The United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the Contact Group proposal. Such action should be taken on separate but complementary international and unilateral tracks, as set forth in subsections (e), (f), and (g).

(e) INTERNATIONAL POLICY.—If the Bosnian Serbs do not accept the Contact Group proposal by the date that is the later of October 15, 1994, or the end of the 10-day period beginning on the date of the enactment of this Act, the President (or his representative) should, not later than 14 days thereafter, formally introduce and support in the United Nations Security Council a resolution to terminate the Bosnia arms embargo. The resolution should provide for the termination of the arms embargo no later than December 1, 1994 (and may allow for the termination to be accomplished in stages ending no later than that date).

(f)[16] UNILATERAL UNITED STATES POLICY.—(1) If by the earlier of November 15, 1994, or the end of the 15-day period beginning on the date on which a resolution described in subsection (e) (or a similar resolution) is formally introduced, the United Nations Security Council has not agreed to such a resolution and the Bosnian Serbs have not accepted the Contact Group proposal—

(A) the funding limitation specified in paragraph (2) shall be in effect;

(B) the President shall submit a plan to, and shall consult with, Congress on the manner in which United States Armed Forces and the military forces of friendly states would provide training to the armed forces of the Government of Bosnia and Hercegovina outside of the territory of Bosnia and Hercegovina; and

(C) the President shall submit a plan to, and shall consult with, Congress regarding the unilateral termination by the United States of compliance with the Bosnia arms embargo and the implications thereof.

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[16] The President issued the following determination on November 12, 1994:

"Pursuant to the authority provided in section 1404(f)(3)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) (the 'Act'), I hereby determine that the limitation in section 1404(f)(2) of the Act is waived in the case of U.S. military personnel serving in NATO headquarters positions, including the following:

"(1) All U.S. military personnel assigned to or performing duties at NATO Headquarters in Brussels, Belgium.

"(2) The Commanders and all U.S. military personnel assigned to or performing duties at the staffs of the Supreme Allied Commander, Europe or the Supreme Allied Commander, Atlantic.

"(3) The Commanders and all U.S. military personnel assigned to or performing duties at the staff of the Commander in Chief, Allied Forces Southern Europe.

"(4) Those U.S. Commanders and U.S. military personnel assigned to or performing duties at subordinate NATO headquarters staffs of the above listed staffs.

"(5) Those U.S. Commanders and other U.S. military personnel assigned to or performing duties at other Allied Forces Europe staffs, such as Commander in Chief, Allied Forces Central Europe." (Presidential Determination No. 95–4; 59 F.R. 64109).

(2) If the funding limitation specified in this paragraph is in effect pursuant to paragraph (1)(A), then no funds appropriated by any provision of law may be used for the purpose of participation in, support for, or assistance to the enforcement of the Bosnia arms embargo by any Department, agency or other entity of the United States (or by any officer or employee of the United States or member of the Armed Forces of the United States) other than as required of all United Nations member states under the United Nations Security Council resolution referred to in subsection (h)(3) and the Charter of the United Nations.

(3)(A) The President may waive the limitation in paragraph (2) in the case of United States military personnel serving in NATO headquarters positions.

(B) Nothing in paragraph (2) is intended to impede enforcement of sanctions against Serbia.

(g) INTERIM POLICY.—If the Bosnian Serb faction attacks any area within those areas that have been designated by the United Nations as "safe areas", the President (or his representative) should promptly formally introduce and support in the United Nations Security Council a resolution that authorizes a selective lifting of the Bosnia arms embargo in order to allow the provision of defensive weapons (such as anti-tank weapons, counter-battery radars, and mortars) to enable the forces of the Government of Bosnia and Hercegovina to defend the safe areas.

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

(1) The term "Contact Group" means the group composed of representatives of the United States, Russia, France, Britain, and Germany seeking to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(2) The term "Contact Group proposal" means the peace proposal of the Contact Group that has been agreed to by the Government of Bosnia and Hercegovina and rejected by the Bosnian Serb faction.

(3) The term "Bosnia arms embargo" means application to the Government of Bosnia and Hercegovina of the arms embargo imposed by United Nations Security Council resolution 713, of September 25, 1991.

SUBTITLE B—ASSISTANCE ACTIVITIES

SEC. 1411. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) OHDACA PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by—

(1) sections 401, 402, 2547, and 2551 of title 10, United States Code;

(2) section 404 of title 10, United States Code, as added by section 1412; and

(3) section 1413 of this Act.[17]

[17] Sec. 1413 of this Act was repealed by sec. 1313(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475).

(b) LIMITATION.—Not more than one-half of the amount authorized to be appropriated in section 301 for those programs may be obligated until the regulations required to be prescribed by subsection (a) of section 1504 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) have been prescribed.

SEC. 1412. FOREIGN DISASTER ASSISTANCE.

(a) AUTHORITY.—Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section: [18]

SEC. 1413.[19] * * * [Repealed—1996]

TITLE XV—ARMS CONTROL MATTERS [20]

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TITLE XXXVI—PANAMA CANAL COMMISSION [21]

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[18] Sec. 1412 added a new sec. 404 to 10 U.S.C., relating to foreign disaster assistance.

[19] Formerly at 10 U.S.C. 401 note. Sec. 1313(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475) repealed sec. 1413, which had provided as follows:

"SEC. 1413. HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES.

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a program for humanitarian purposes to provide assistance to other nations in the detection and clearance of landmines. Such assistance shall be provided through instruction, education, training, and advising of personnel of those nations in the various procedures that have been determined effective for detecting and clearing landmines.

"(b) FORMS OF ASSISTANCE.—The Secretary may provide assistance under subsection (a) by—

"(1) providing Department of Defense personnel to conduct the instruction, education, or training or to furnish advice; or

"(2) providing financial assistance or in-kind assistance in support of such instruction, education, or training.

"(c) LIMITATION ON UNITED STATES MILITARY PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

"(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

"(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

"(d) USE OF FUNDS.—Of the amount authorized to be appropriated by section 301 for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department of Defense, not more than $20,000,000 shall be available for the program under subsection (a). Such amount may be used—

"(1) for activities to support the clearing of landmines for humanitarian purposes, including activities relating to the furnishing of education, training, and technical assistance;

"(2) for the provision of equipment and technology by transfer or lease to a foreign government that is participating in a landmine clearing program under this section; and

"(3) for contributions to nongovernmental organizations that have experience in the clearing of landmines to support activities described in subsection (a).

"(e) NOTICE TO CONGRESS.—The Secretary of Defense shall provide notice to Congress of any activity carried out under this section.".

[20] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[21] See *Legislation on Foreign Relations Through 1997*, vol. II.

h. National Defense Authorization Act for Fiscal Year 1994

Partial text of Public Law 103–160 [H.R. 2401], 107 Stat. 1547, approved November 30, 1993; amended by Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1994".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

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[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1994 the amount of $379,561,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $280,361,000 is for operations and maintenance;

(2) $72,600,000 is for procurement; and

(3) $26,600,000 is for research and development efforts in support of the nonstockpile chemical weapons program.

(c) CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY.—Subsection (c)(3) of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), is amended by striking out "and approving" in the third sentence and inserting in lieu thereof ", approving, and overseeing".

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Subtitle C—Navy Programs

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SEC. 122. TRIDENT II (D–5) MISSILE PROCUREMENT.

(a) * * *

(b) OPTIONS FOR ACHIEVING SLBM WARHEAD LIMITATIONS.—Not later than April 1, 1994, the Secretary of Defense shall submit to Congress a report on options available for achieving the limitations on submarine-launched ballistic missile (SLBM) warheads imposed by the START II treaty at significantly reduced costs from the costs planned for fiscal year 1994. The report shall include an examination of the implications for those options of further reductions in the number of such warheads under further strategic arms reduction treaties.

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Subtitle E—Other Matters

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SEC. 152. GLOBAL POSITIONING SYSTEM.

(a) PROGRAM STUDY REQUIRED.—(1) The Secretary of Defense shall provide for an independent study to be conducted on the management and funding of the Global Positioning System program for the future.

(2) With the agreement of the National Academy of Sciences and the National Academy of Public Administration, the study shall be conducted jointly by those organizations.

(3) Of the amounts authorized to be appropriated to the Department of Defense for fiscal year 1994 and made available for procurement of Global Positioning System user equipment, for procurement of spacecraft, or for operations and maintenance, up to $3,000,000 may be used for carrying out the study required by paragraph (1).

(b) LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.—After September 30, 2000, funds may not be obligated to modify or procure any Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver.

(c) REPORT.—(1) Not later than May 1, 1994, the Secretary of Defense shall submit to the committees specified in paragraph (3) a report on the Global Positioning System. The report shall include a description of each of the following:

(A) The threats, if any, to the health and safety of United States military forces, allied military forces, and the United States and allied civilian populations, and the threats, if any, of damage to property within the United States and allied countries, that will result by the year 2000 from Global Positioning System navigation signals, local and wide-area differential navigation correction signals, kinematic differential correction signals, and commercially available map products based on the Global Positioning System.

(B) The threat, if any, to civil aviation and other transportation operations that will result by the year 2000 from the signal jamming, deception, and other disruptive effects of Global Positioning System navigation signals.

(C) The actions, if any, that can be taken to eliminate or mitigate such threats.

(D) The modifications, if any, of the Global Positioning System and derivative systems that can be made to eliminate or significantly reduce such threats, or to increase the ability of the Department of Defense to mitigate such threats, without interfering with authorized and peaceful uses of the Global Positioning System.

(2) The report under paragraph (1) shall be prepared in coordination with the Director of Central Intelligence.

(3) The committees referred to in paragraph (1) are—

(A) the Committee on Armed Services,[2] the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

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SEC. 159. SPACE-BASED MISSILE WARNING AND SURVEILLANCE PROGRAMS.

(a) AMOUNT FOR PROGRAMS.—Of the amounts authorized to be appropriated by section 104, not to exceed $801,900,000 shall be available for space-based missile warning and surveillance programs.

(b) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, during fiscal year 1994 funds may be transferred from the amount available for space-based missile warning and surveil-

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

lance programs pursuant to subsection (a) to programs specified in subsection (c) as follows:

(1) Before March 1, 1994, up to $250,000,000.

(2) On or after March 1, 1994, any unobligated amount remaining for space-based missile warning and surveillance programs pursuant to subsection (a).

(c) PROGRAMS TO WHICH TRANSFERRED.—A transfer under subsection (b) may be made to any of the following programs:

(1) The Follow-on Early Warning System.

(2) The Defense Support Program.

(3) The Brilliant Eyes Program.

(4) The Cobra Ball Upgrade Program.

(d) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The authority to make transfers under subsection (b) is in addition to the authority provided in section 1101.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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Subtitle B—Program Requirements, Restrictions, and Limitations

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SEC. 213. SPACE LAUNCH MODERNIZATION PLAN.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a plan that establishes and clearly defines priorities, goals, and milestones regarding modernization of space launch capabilities for the Department of Defense or, if appropriate, for the Government as a whole. The plan shall specify whether the Secretary intends to allocate funds for a new space launch vehicle or other major space launch development initiative in the next future-years defense program submitted pursuant to section 221 of title 10, United States Code.

(2) The plan shall be developed in consultation with the Director of the Office of Science and Technology Policy.

(3) The Secretary shall submit the plan to Congress at the same time in 1994 that the Secretary submits to Congress the next future-years defense program.

(b) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated in section 201, $35,000,000 shall be available through the Office of the Undersecretary of Defense for Acquisition and Technology for research, development, test, and evaluation of new non-man-rated space launch systems and technologies. None of that amount may be obligated or expended for any operational United States space launch vehicle system in existence as of the date of the enactment of this Act. Of that amount—

(1) $17,000,000 shall be available for the single-stage rocket technology (SSRT) program, including—

(A) completion of phase one of the SSRT program begun in the Ballistic Missile Defense Office;

(B) concept studies for new reusable space launch vehicles;

(C) data base development on domestic and foreign launch systems to support design-to-cost, engine development, and reduced life-cycle costs; and

(D) examination of reusable engine thrust chamber component applications to achieve advanced producibility, cost, and durability information needed for improved designs; and

(2) $18,000,000 shall be available for similar tasks related to expendable launch vehicles, including—

(A) concept studies for new expendable space launch vehicles;

(B) data base development on domestic and foreign launch systems to support design-to-cost, engine development, and reduced life-cycle costs; and

(C) examination of expendable engine thrust chamber component applications to achieve advanced producibility, cost, and durability information needed for improved designs.

(c) REQUIREMENTS REGARDING DEVELOPMENT OF NEW LAUNCH VEHICLES.—If the space launch plan under subsection (a) identifies a new, non-man-rated expendable or reusable launch vehicle technology for development or acquisition, the Secretary shall explore innovative government-industry funding, management, and acquisition strategies to minimize the cost and time involved.

(d) COST REDUCTION REQUIREMENT.—The plan shall provide for a means of reducing the cost of producing existing launch vehicles at current and projected production rates below the current estimates of the costs for those production rates.

(e) STUDY OF DIFFERENCES BETWEEN UNITED STATES AND FOREIGN SPACE LAUNCH VEHICLES.—(1) The Secretary of Defense shall conduct a comprehensive study of the differences between existing United States and foreign expendable space launch vehicles in order—

(A) to identify specific differences in the design, manufacture, processing, and overall management and infrastructure of such space launch vehicles; and

(B) to determine the approximate effect of the differences on the relative cost, reliability, and operational efficiency of such space launch vehicles.

(2) The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration and, as appropriate, the heads of other Federal agencies and appropriate personnel of United States industries and academic institutions in carrying out the study.

(3) The Secretary shall submit to Congress a report of the results of the study no later than October 1, 1994.

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Subtitle C—Missile Defense Programs

SEC. 231. FUNDING FOR BALLISTIC MISSILE DEFENSE PROGRAMS FOR FISCAL YEAR 1994.

(a) TOTAL AMOUNT.—Of the amounts appropriated pursuant to section 201 for fiscal year 1994 or otherwise made available to the

Department of Defense for research, development, test, and evaluation for fiscal year 1994, not more than $2,638,992,000 may be obligated for programs managed by the Ballistic Missile Defense Organization.

(b) ALLOCATION TO PROGRAM ELEMENTS.—Of the amount specified in subsection (a)—

(1) not more than $1,450,992,000 shall be available for programs, projects, and activities within the Theater Missile Defense program element;

(2) not more than $650,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element; and

(3) a total of not more than $538,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element, including funding for the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

(c) TRANSFER AUTHORITIES.—(1) Notwithstanding the limitations set forth in paragraphs (1) through (3) of subsection (b), the Secretary of Defense may transfer funds among the program elements managed by the Ballistic Missile Defense Organization. The total amount that may be transferred pursuant to the preceding sentence—

(A) from any program element named in subsection (b) may not exceed 10 percent of the amount specified for that program element in subsection (b); and

(B) to any program element named in subsection (b) may not result in an increase by more than 10 percent of the amount specified for that program element in that subsection.

(2) The authority under paragraph (1) may not be used to transfer funds from the Theater Missile Defense program element.

(3) The authority under paragraph (1) may not be used to transfer funds from the Limited Defense System program element to the program element for Research and Support Activities.

(4) Amounts transferred pursuant to paragraph (1) shall be merged with and be available for the same purposes as the amounts to which transferred.

(d) LIMITATIONS.—None of the funds authorized to be obligated under subsection (a) may be obligated for the Brilliant Eyes space-based sensor program. Such funds may be obligated for the Brilliant Pebbles program only within the Research and Support Activities program element and in an amount not in excess of $35,000,000.

(e) REPORT ON ALLOCATION OF FUNDS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the ballistic missile defense program for fiscal year 1994. The report—

(1) shall specify the amount of such funds allocated for each program, project, and activity managed by the Ballistic Missile Defense Organization; and

(2) shall list each ballistic missile defense program, project, and activity under the appropriate program element.

SEC. 232.[3] REVISIONS TO MISSILE DEFENSE ACT OF 1991. * * *

SEC. 233. PATRIOT ADVANCED CAPABILITY–3 THEATER MISSILE DEFENSE SYSTEM.

(a) COMPETITION FOR MISSILE SELECTION.—The Secretary of Defense shall continue the strategy being carried out by the Ballistic Missile Defense Organization as of October 1, 1993, for selection of the best technology (in terms of cost, schedule, risk, and performance) to meet the missile requirements for the Patriot Advanced Capability–3 (PAC–3) theater missile defense system. That strategy, consisting of flight testing, ground testing, simulations, and other analyses of the weapon systems referred to in subsection (d), shall be continued until the Secretary determines that the Ballistic Missile Defense Organization has adequate information upon which to base a decision as to which missile will be selected to proceed into the Engineering and Manufacturing Development stage.

(b) IMPLICATIONS OF DELAY.—If there is a delay (based upon the schedule in effect in October 1993) in the selection described in subsection (a) of the missile for the Patriot Advanced Capability–3 system, the Secretary of Defense shall ensure that demonstration and validation of both competing systems can continue as needed to support an informed decision for such selection.

(c) FUNDING FOR CERTAIN BALLISTIC MISSILE RDT&E.—If a decision is not made before February 28, 1994, to proceed into the Engineering and Manufacturing Development stage under a weapon system program referred to in subsection (d), the funds appropriated pursuant to the authorization of appropriations in section 201 that are available for engineering and manufacturing development for such a program shall be available for research, development, test, and evaluation of the Patriot PAC–3 Missile program.

(d) COVERED WEAPON SYSTEM PROGRAMS.—For purposes of subsections (a) and (c), the weapon system programs referred to in this subsection are as follows:

(1) The Patriot Multimode Missile Program.

(2) The Extended Range Interceptor (ERINT) missile program.

SEC. 234.[4] * * * [Repealed—1996]

SEC. 235.[5] THEATER MISSILE DEFENSE MASTER PLAN.

(a) INTEGRATION AND COMPATIBILITY.—In carrying out the Theater Missile Defense Initiative, the Secretary of Defense shall—

(1) seek to maximize the use of existing systems and technologies; and

(2) seek to promote joint use by the military departments of existing and future ballistic missile defense equipment (rather than each military department developing its own systems that would largely overlap in their capabilities).

The Secretaries of the military departments shall seek the maximum integration and compatibility of their ballistic missile defense

[3] Sec. 232 amended the Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note).

[4] Formerly at 10 U.S.C. 2431 note. Sec. 253(6) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 235) repealed sec. 234, relating to compliance of ballistic missile defense systems and components with the ABM treaty.

[5] 10 U.S.C. 2431 note.

systems as well as of the respective roles and missions of those systems.

(b) TMD MASTER PLAN.—The Secretary of Defense shall submit to Congress a report (which shall constitute the TMD master plan) containing a thorough and complete analysis of the future of theater missile defense programs. The report shall include the following:

(1) A description of the mission and scope of Theater Missile Defense.

(2) A description of the role of each of the Armed Forces in Theater Missile Defense.

(3) A description of how those roles interact and complement each other.

(4) An evaluation of the cost and relative effectiveness of each interceptor and sensor under development as part of a Theater Missile Defense system by the Ballistic Missile Defense Organization.

(5) A detailed acquisition strategy which includes an analysis and comparison of the projected acquisition and life-cycle costs of each Theater Missile Defense system intended for production (shown separately for research, development, test, and evaluation, for procurement, for operation and maintenance, and for personnel costs for each system).

(6) Specification of the baseline production rate for each year of the program through completion of procurement.

(7) An estimate of the unit cost and capabilities of each system.

(8) A description of plans for theater and tactical missile defense doctrine, training, tactics, and force structure.

(c) DESCRIPTION OF TESTING PROGRAM.—The Secretary of Defense shall include in the report under subsection (b)—

(1) a description of the current and projected testing program for Theater Missile Defense systems and major components; and

(2) an evaluation of the adequacy of the testing program to simulate conditions similar to those the systems and components would actually be expected to encounter if and when deployed (such as the ability to track and engage multiple targets with multiple interceptors, to discriminate targets from decoys and other incoming objects, and to be employed in a shoot-look-shoot firing mode).

(d) RELATIONSHIP TO ARMS CONTROL TREATIES.—The Secretary shall include in the report under subsection (b) a statement of how production and deployment of any projected Theater Missile Defense program will conform to all relevant arms control agreements. The report shall describe any potential noncompliance with any such agreement, when such noncompliance is expected to occur, and whether provisions need to be renegotiated within that agreement to address future contingencies.

(e) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted as part of the next annual report of the Secretary submitted to Congress under section 224 of Public Law 101–189 (10 U.S.C. 2431 note).

(f) OBJECTIVES OF PLAN.—In preparing the master plan, the Secretary shall—

(1) seek to maximize the use of existing technologies (such as SM–2, AEGIS, Patriot, and THAAD) rather than develop new systems;

(2) seek to maximize integration and compatibility among the systems, roles, and missions of the military departments; and

(3) seek to promote cross-service use of existing equipment (such as development of Army equipment for the Marine Corps or ground utilization of an air or sea system).

(g) REVIEW AND REPORT ON DEPLOYMENT OF BALLISTIC MISSILE DEFENSES.—(1) The Secretary of Defense shall conduct an intensive and extensive review of opportunities to streamline the weapon systems acquisition process applicable to the development, testing, and deployment of theater ballistic missile defenses with the objective of reducing the cost of deployment and accelerating the schedule for deployment without significantly increasing programmatic risk or concurrency.

(2) In conducting the review, the Secretary shall obtain recommendations and advice from—

(A) the Defense Science Board;

(B) the faculty of the Industrial College of the Armed Forces; and

(C) federally funded research and development centers supporting the Office of the Secretary of Defense.

(3) Not later than May 1, 1994, the Secretary shall submit to the congressional defense committees a report on the Secretary's findings resulting from the review under paragraph (1), together with any recommendations of the Secretary for legislation. The Secretary shall submit the report in unclassified form, but may submit a classified version of the report if necessary to clarify any of the information in the findings or recommendations or any related information. The report may be submitted as part of the next annual report of the Secretary submitted to Congress under section 224 of Public Law 101–189 (10 U.S.C. 2431 note).

SEC. 236. LIMITED DEFENSE SYSTEM DEVELOPMENT PLAN.

(a) REQUIREMENT FOR REPORT.—(1) The Secretary of Defense shall submit to the congressional defense committees a report on the development plan for a Limited Defense System covering the period of fiscal years 1994 through 1999.

(2) The report under paragraph (1) shall be submitted not later than May 30, 1994, and may be included in the next annual report on ballistic missile defenses submitted to Congress under section 224 of Public Law 101–189 (10 U.S.C. 2431 note).

(b) ISSUES TO BE ADDRESSED IN REPORT.—The report under subsection (a) shall include discussion of the following matters:

(1) The proposed Limited Defense System architecture.

(2) The systems and components to be developed to implement that architecture.

(3) The extent to which those systems and components can be developed during the period referred to in subsection (a), as-

suming annual funding for the Limited Defense System averaging $600,000,000 per year.

(4) The additional funding required and the additional time required after fiscal year 1999 in order for initial deployment of a limited, ABM-Treaty-compliant capability at a single site to be implemented.

(5) The variations in both required funding and required time after fiscal year 1999 for the same initial deployment to be implemented—

(A) if funding for a Limited Defense System during fiscal years 1995 through 1999 averages $750,000,000 per year; and

(B) if funding for a Limited Defense System during fiscal years 1995 through 1999 averages $450,000,000 per year.

(6) The extent to which missile defense technologies and components that are developed for Theater Missile Defense systems to be deployed before fiscal year 2000 can reduce the development costs and lead-times for development and deployment of a Limited Defense System.

(7) The extent to which acquisition streamlining can be applied to the development of a Limited Defense System.

(8) The extent to which the testing and simulation infrastructure, the level of engineering and technical support, the extensive reliance on studies and analyses by contractors, and the substantial use of outside contractors for systems engineering and technical analysis which the Ballistic Missile Defense Organization has inherited from the Strategic Defense Initiative Organization can be reduced given the re-evaluation of the Ballistic Missile Defense program that has emerged from the Bottom-Up Review of the Secretary of Defense which was conducted during 1993.

(9) Such other matters as the Secretary considers important.

SEC. 237. THEATER AND LIMITED DEFENSE SYSTEM TESTING.

(a)[6] TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—(1) The Secretary of Defense may not approve a theater missile defense interceptor program proceeding beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that such program has successfully completed initial operational test and evaluation.

(2) In order to be certified under paragraph (1) as having been successfully completed, the initial operational test and evaluation conducted with respect to an interceptors program must have included flight tests—

[6] Sec. 252 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 234), amended and restated subsec. (a), which had formerly read as follows:

"(a) TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—Except for the acquisition of those production representative missiles required for the completion of developmental and operational testing, the Secretary of Defense may not approve a theater missile defense interceptor program proceeding into the Low-Rate Initial Production (Milestone IIIA) acquisition stage until the Secretary certifies to the congressional defense committees that more than two realistic live-fire tests, consistent with section 2366 of title 10, United States Code, have been conducted, the results of which demonstrate the achievement by the interceptors of the weapons systems performance goals specified in the system baseline document established pursuant to section 2435(a)(1)(A) of title 10, United States Code, before the program entered engineering and manufacturing systems development. The live-fire tests demonstrating such results shall involve multiple interceptors and multiple targets in the presence of realistic countermeasures.".

(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

(B) the results of which demonstrate the achievement by the interceptors of the baseline performance thresholds.

(3) For purposes of this subsection, the baseline performance thresholds with respect to a program are the weapons systems performance thresholds specified in the baseline description for the system established (pursuant to section 2435(a)(1) of title 10, United States Code) before the program entered the engineering and manufacturing development stage.

(4) The number of flight tests described in paragraph (2) that are required in order to make the certification under paragraph (1) shall be a number determined by the Secretary of Defense to be sufficient for the purposes of this section.

(5) The Secretary may augment live-fire testing to demonstrate weapons system performance goals for purposes of the certification under paragraph (1) through the use of modeling and simulation that is validated by ground and flight testing.

(b) ADVANCE REVIEW AND APPROVAL OF PROPOSED DEVELOPMENTAL TESTS OF LIMITED DEFENSE SYSTEM PROGRAM PROJECTS.—A developmental test may not be conducted under the Limited Defense System program element of the Ballistic Missile Defense Program until the Secretary of Defense reviews and approves (or approves with changes) the test plan for such developmental test.

(c) INDEPENDENT MONITORING OF TESTS.—(1) The Secretary shall provide for monitoring of the implementation of each test plan referred to in subsection (b) by a group composed of persons who—

(A) by reason of education, training, or experience are qualified to monitor the testing covered by the plan; and

(B) are not assigned or detailed to, or otherwise performing duties of, the Ballistic Missile Defense Organization and are otherwise independent of such organization.

(2) The monitoring group shall submit to the Secretary its analysis of, and conclusions regarding, the conduct and results of each test monitored by the group.

SEC. 238.[7] ARROW TACTICAL ANTI-MISSILE PROGRAM.

(a) ENDORSEMENT OF COOPERATIVE RESEARCH AND DEVELOPMENT.—Congress reiterates its endorsement (previously stated in section 225(a)(5) of Public Law 101–510 (104 Stat. 1515) and section 241(a) of Public Law 102–190 (105 Stat. 1326)) of a continuing program of cooperative research and development, jointly funded by the United States and Israel, on the Arrow Tactical Anti-Missile program.

(b) PROGRAM GOAL.—The goal of the cooperative program is to demonstrate the feasibility and practicality of the Arrow system

[7] On May 28, 1996, the President certified that:

"—The United States and the Government of Israel have entered into an agreement governing the conduct and funding of the Arrow Deployability Program;

"—the Arrow Deployability Program will benefit the United States and has not been barred by other Congressional direction;

"—The Arrow missile successfully completed a flight test on June 12, 1994, in which it intercepted a target missile under realistic test conditions; and

"—the Government of Israel is continuing, in accordance with its previous public commitments, to adhere to export controls pursuant to the Guidelines and Annex of the Missile Technology Control Regime." (Presidential Determination No. 96–27; 61 F.R. 29001).

and to permit the government of Israel to make a decision on its own initiative regarding deployment of that system without financial participation by the United States beyond the research and development stage.

(c) ARROW CONTINUING EXPERIMENTS.—The Secretary of Defense, from amounts appropriated to the Department of Defense pursuant to section 201 for Defense-wide activities and available for the Ballistic Missile Defense Organization, shall fund the United States contribution to the fiscal year 1994 Arrow Continuing Experiments program in an amount not to exceed $56,400,000.

(d) ARROW DEPLOYABILITY INITIATIVE.—(1) Subject to paragraph (2), the Secretary of Defense may obligate funds appropriated pursuant to section 201 in an amount not to exceed $25,000,000 for the purpose of research and development of technologies associated with deploying the Arrow missile in the future (including technologies associated with battle management, lethality, system integration, and test bed systems).

(2) Funds may not be obligated for the purpose stated in paragraph (1) (other than as required to satisfy the conditions set forth in this paragraph) unless the President certifies to Congress that—

(A) the United States and the government of Israel have entered into an agreement governing the conduct and funding of research and development projects for the purpose stated in paragraph (1);

(B) each project in which the United States will join under that agreement (i) will have a benefit for the United States, and (ii) has not been barred by other congressional direction;

(C) the Arrow missile has successfully completed a flight test in which it intercepted a target missile under realistic test conditions; and

(D) the government of Israel is continuing, in accordance with its previous public commitments, to adhere to export controls pursuant to the Guidelines and Annex of the Missile Technology Control Regime.

(e) SENSE OF CONGRESS ON EXPEDITING TEST PROGRAM.—It is the sense of Congress that, in order to expedite the test program for the Arrow missile, the United States should seek to initiate with the government of Israel discussions on the agreement referred to in subsection (d)(2)(A) without waiting for the condition specified in subsection (d)(2)(C) to be met first.

SEC. 239. REPORT ON ARROW TACTICAL ANTI-MISSILE PROGRAM.

(a) REPORT REQUIRED.—Not later than April 1, 1994, the Secretary of Defense shall submit to the congressional defense committees a report on the Arrow Tactical Anti-Missile program. The Secretary shall design the report to provide those committees with the information they need in order to perform their oversight function. The Secretary shall obtain the information for the report from actual program data to which the United States Government has access, to the extent possible, or, if necessary, from the best estimates available to the United States Government.

(b) CONTENT OF REPORT.—The report shall include (at a minimum) the following:

(1) The development and procurement schedules for the program.

(2) The estimated annual and total cost of the program.

(3) The estimated total cost to the United States of involvement in the program, including funding provided through foreign military sales financing under the Arms Export Control Act.

(4) A detailed description of the contract types and cost estimating data for the program.

(5) An assessment of the performance of the Arrow interceptor and the Arrow system.

(6) An evaluation of the development and production risks under the program.

(7) Alternatives to the Arrow interceptor and Arrow system for meeting the tactical ballistic missile defense needs of Israel, including providing Israel with an existing or planned United States weapon system.

(8) For each such alternative—

(A) an assessment of the cost effectiveness of undertaking the alternative;

(B) the technology transfer implications; and

(C) the weapon proliferation implications.

(c) FORM OF REPORT.—The Secretary shall submit the report in classified and unclassified versions.

(d) CONSTRUCTION OF SECTION.—Nothing in this section shall be construed to endorse United States participation in any aspect of the Arrow program beyond the research and development programs authorized by law.

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SEC. 241. CLEMENTINE SATELLITE PROGRAM.

(a) FINDING.—The Congress finds that the program of the Ballistic Missile Defense Organization that is known as the "Clementine" program, consisting of a satellite space project that will, among other matters, provide valuable information about asteroids in the vicinity of Earth, represents an important opportunity for transfer of Department of Defense technology for civilian purposes and should be supported.

(b) CONGRESSIONAL VIEWS.—The Congress urges the Secretary of Defense—

(1) to identify an appropriate management structure within either the Advanced Research Projects Agency or one of the military departments to which the Clementine program and related programs of general applicability to civilian, commercial, and military space programs might be transferred; and

(2) to consider funding for the Clementine program to be a priority within whatever agency or department is identified as described in paragraph (1) and to provide funds for that program at an appropriate level.

[8] Formerly at 10 U.S.C. 2431 note. Sec. 253(7) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 235) repealed sec. 242, relating to cooperation of U.S. allies on development of tactical and theater missile defenses.

SEC. 242.[8] * * * [Repealed—1996]

SEC. 243.[9] TRANSFER OF FOLLOW-ON TECHNOLOGY PROGRAMS.

(a) MANAGEMENT RESPONSIBILITY.—Except as provided in subsection (b), the Secretary of Defense shall provide that management and budget responsibility for research and development of any program, project, or activity to develop far-term follow-on technology relating to ballistic missile defense shall be provided through the Defense[10] Advanced Research Projects Agency or the appropriate military department.

(b) WAIVER AUTHORITY.—The Secretary may waive the provisions of subsection (a) in the case of a particular program, project, or activity if the Secretary certifies to the congressional defense committees that it is in the national security interest of the United States to provide management and budget responsibility for that program, project, or activity through the Ballistic Missile Defense Organization.

(c) REPORT REQUIRED.—As a part of the report required by section 231(e), the Secretary shall submit to the congressional defense committees a report identifying—

(1) each program, project, and activity with respect to which the Secretary has transferred management and budget responsibility from the Ballistic Missile Defense Organization in accordance with subsection (a);

(2) the agency or military department to which each such transfer was made; and

(3) the date on which each such transfer was made.

(d) DEFINITION.—For the purposes of this section, the term "far-term follow-on technology" means a technology that is not incorporated into a ballistic missile defense architecture and is not likely to be incorporated within 15 years into a weapon system for ballistic missile defense.

(e) CONFORMING AMENDMENT.—Section 234 of the Missile Defense Act of 1991 is repealed.

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Subtitle E—Other Matters

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TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

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SEC. 306. FUNDS FOR CLEARING LANDMINES.

(a) LIMITATION.—Of the funds authorized to be appropriated in section 301, not more than $10,000,000 shall be available for activities to support the clearing of landmines for humanitarian purposes (as determined by the Secretary of Defense), including the clearing of landmines in areas in which refugee repatriation programs are on-going.

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[9] 10 U.S.C. 2431 note.

[10] Sec. 1073(e)(E) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2658) inserted "Defense" before "Advanced Research Projects Agency".

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of subsection (a). The report shall specify the following:

(1) The amount of the funds made available under subsection (a) that are to be expended.

(2) The purposes for which the funds are to be expended.

(3) The location of the landmine clearing activity.

(4) Any use of United States military personnel or employees of the Department of Defense in the activity.

(5) Any use of non-Federal Government organizations in the activity.

(6) The relationship between the activity and the missions of the Department of Defense.

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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Subtitle E—Other Matters

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SEC. 843.[11] REPORTS BY DEFENSE CONTRACTORS OF DEALINGS WITH TERRORIST COUNTRIES.

(a) REPORT REQUIREMENT.—(1) Whenever the Secretary of Defense proposes to enter into a contract with any person for an amount in excess of $5,000,000 for the provision of goods or services to the Department of Defense, the Secretary shall require that person—

(A) before entering into the contract, to report to the Secretary each commercial transaction which that person has conducted with the government of any terrorist country during the preceding three years or the period since the effective date of this section, whichever is shorter; and

(B) to report to the Secretary each such commercial transaction which that person conducts during the course of the contract (but not after the date specified in subsection (h)) with the government of any terrorist country.

(2) The requirement contained in paragraph (1)(B) shall be included in the contract with the Department of Defense.

(b) REGULATIONS.—The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this section.

(c) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense shall submit to the Congress each year by December 1 a report setting forth those persons conducting commercial transactions with terrorist countries that are included in the reports made pursuant to subsection (a) during the preceding fiscal year, the terrorist countries with which those transactions were conducted, and the nature of those transactions. The version of the report made available for public release shall exclude information exempt from pub-

[11] 10 U.S.C. 2327 note.

lic disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

(d) LIABILITY.—This section shall not be interpreted as imposing any liability on a person for failure to comply with the reporting requirement of subsection (a) if the failure to comply is caused solely by an act or omission of a third party.

(e) PERSON DEFINED.—For purposes of this section, the term "person" means a corporate or other business entity proposing to enter or entering into a contract covered by this section. The term does not include an affiliate or subsidiary of the entity.

(f) TERRORIST COUNTRY DEFINED.—A country shall be considered to be a terrorist country for purposes of a contract covered by this section if the Secretary of State has determined pursuant to law, as of the date that is 60 days before the date on which the contract is signed, that the government of that country is a government that has repeatedly provided support for acts of international terrorism.

(g) EFFECTIVE DATE.—This section shall apply with respect to contracts entered into after the expiration of the 90-day period beginning on the date of the enactment of this Act, or after the expiration of the 30-day period beginning on the date of publication in the Federal Register of the final regulations referred to in subsection (b), whichever is earlier.

(h) TERMINATION.—This section expires on September 30, 1996.

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TITLE XI—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1101. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1994 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

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SEC. 1108. FUNDING STRUCTURE FOR CONTINGENCY OPERATIONS.

(a)[12] * * *

(b) FIRST YEAR FUNDING.—There is hereby authorized to be appropriated for fiscal year 1994 to the fund established under section 127a(e) of title 10, United States Code, as added by subsection (a), the sum of $10,000,000.[13]

Subtitle B—Fiscal Year 1993 Authorization Matters

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SEC. 1113. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1993 for covering the incremental costs arising from Operation Restore Hope, Operation Provide Comfort, and Operation Southern Watch, and deficiencies in funding of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), and for repairing flood damage at Camp Pendleton, California, $1,246,928 as follows: * * *

(2) For Operation and Maintenance: * * *

(G) For Humanitarian Assistance, $23,000,000.

(b) * * *

Subtitle C—Counter-Drug Activities

SEC. 1121. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER AGENCIES.

(a)–(b) * * *

(c) FUNDING OF SUPPORT ACTIVITIES.—Of the amount authorized to be appropriated for fiscal year 1994 under section 301(15) for operation and maintenance with respect to drug interdiction and counter-drug activities, $40,000,000 shall be available to the Secretary of Defense for the purposes of carrying out section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note).

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Subtitle G—Congressional Findings, Policies, Commendations, and Commemorations

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SEC. 1163. SENSE OF CONGRESS REGARDING UNITED STATES POLICY ON PLUTONIUM.

(a) FINDING.—The Congress finds that reprocessing spent nuclear fuel referred to in subsection (c) to recover plutonium may pose se-

[12] Sec. 1108(a)(1) added a new sec. 127a to 10 U.S.C., relating to expenses for contingency operations.

[13] Sec. 127a(e), 10 U.S.C., as added by subsec. (a) of this section, established a Department of Defense reserve fund, known as the "National Contingency Operation Personnel Fund", to make funds available for "incremental military personnel costs attributable to a National Contingency Operation.".

rious environmental hazards and increase the risk of proliferation of weapons-usable plutonium.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should take action to encourage the reduction or cessation of the reprocessing of spent nuclear fuel referred to in subsection (c) to recover plutonium until the environmental and proliferation concerns related to such reprocessing are resolved.

(c) COVERED SPENT NUCLEAR FUEL.—The spent nuclear fuel referred to in subsections (a) and (b) is spent nuclear fuel used in a commercial nuclear power reactor by the Government of a foreign country or by a foreign-owned or foreign-controlled entity.

SEC. 1164. SENSE OF SENATE ON ENTRY INTO THE UNITED STATES OF CERTAIN FORMER MEMBERS OF THE IRAQI ARMED FORCES.

It is the sense of the Senate that no person who was a member of the armed forces of Iraq during the period from August 2, 1990, through February 28, 1991, and who is in a refugee camp in Saudi Arabia as of the date of enactment of this Act should be granted entry into the United States under the Immigration and Nationality Act unless the President certifies to Congress before such entry that such person—

(1) assisted the United States or coalition armed forces after defection from the armed forces of Iraq or after capture by the United States or coalition armed forces; and

(2) did not commit or assist in the commission of war crimes.

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Subtitle H—Other Matters

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SEC. 1186. EXPORT LOAN GUARANTEES.

(a) AUTHORITY TO PROVIDE LOAN GUARANTEES.—Subject to subsection (b) and subject to the availability of appropriations for this purpose, the President may carry out a program to issue guarantees during fiscal year 1994 against the risk of nonpayment arising out of loan financing of the sale of defense articles and defense services to any member nation of the North Atlantic Treaty Organization (other than the United States), Israel, Australia, Japan, or the Republic of Korea. The aggregate amount guaranteed under this section in such fiscal year may not exceed $1,000,000,000.

(b) CERTIFICATION OF INTENT TO USE AUTHORITY.—The President may not issue guarantees under the loan guarantee program unless, not later than the end of the 180-day period beginning on the date of the enactment of this Act, the President certifies to Congress that—

(1) the President intends to issue loan guarantees under the loan guarantee program;

(2) the exercise of the authority provided under the program is consistent with the objectives of the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(3) the exercise of the authority provided under the program is consistent with the policy of the United States regarding conventional arms sales and nonproliferation goals.

(c) PROHIBITION ON USE OF CERTAIN FUNDS.—None of the funds authorized to be appropriated in this Act and made available for defense conversion, reinvestment, and transition assistance programs (as defined in section 1302(c)) may be used to finance the subsidy cost of loan guarantees issued under this section.

(d) TERMS AND CONDITIONS.—(1) In issuing guarantees under the loan guarantee program for medium- and long-term loans for sales of defense articles or defense services, the President may not offer terms and conditions more beneficial than would be provided by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(2) The issuance of loan guarantees for exports under the loan guarantee program shall be subject to all United States Government review procedures for arms sales to foreign governments and shall be consistent with United States policy on arms sales to those nations referred to in subsection (a).

(e) SUBSIDY COST AND FUNDING.—(1) There is authorized to be appropriated for fiscal year 1994, $25,000,000 for the subsidy cost of the loan guarantees issued under this section.

(2) Funds authorized to be available for the Export-Import Bank of the United States may not be used for the execution of the loan guarantee program.

(f) EXECUTIVE AGENCY.—The Department of Defense shall be the executive agency responsible for administration of the loan guarantee program unless the President, in consultation with Congress, designates another department or agency to implement the program. Applications for guarantees issued under this section shall be submitted to the Secretary of Defense, who may make such arrangements as are necessary with other departments or agencies to process the applications and otherwise to implement the loan guarantee program.

(g) FEES CHARGED AND COLLECTED.—A fee shall be charged for each guarantee issued under the loan guarantee program. All fees collected in connection with guarantees issued under the program under this section shall be available to offset the cost of guarantee obligations under the program. All of the fees collected under this subsection, together with earnings on those fees and other income arising from guarantee operations under the program, shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes of the program.

(h) NATIONAL SECURITY COUNCIL REVIEW PROCESS.—In addition to the interagency review process for arms sales to foreign governments referred to in subsection (d)(2), the National Security Council shall review each proposed sale for which a guarantee is proposed to be issued under the loan guarantee program to determine whether the sale is in accord with United States security interests, that it contributes to collective defense burden sharing, and that it is consistent with United States nonproliferation goals.

(i) DEFINITIONS.—For purposes of this section, the terms "defense article", "defense service", and "defense articles and defense serv-

ices" have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION[14]

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TITLE XIII—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

SEC. 1301.[15] SHORT TITLE.

This title may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993".

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Subtitle D—National Shipbuilding Initiative

SEC. 1351.[16] SHORT TITLE.

This subtitle may be cited as the "National Shipbuilding and Shipyard Conversion Act of 1993".

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SEC. 1355. AUTHORITY FOR SECRETARY OF TRANSPORTATION TO MAKE LOAN GUARANTEES.

(a)[17] IN GENERAL.—Title XI of the Merchant Marine Act, 1936, is further amended by adding at the end the following new section: * * *

(b)[18] IMPLEMENTATION.—

(1) INITIAL DESIGNATION OF COUNCIL MEMBERS.—Each member of the council established under section 1111(b) of the Merchant Marine Act, 1936, as added by subsection (a), shall name a designee for service on the council not later than 30 days after the date of the enactment of this Act. Each such member shall promptly notify the Secretary of Transportation of that designation.

(2) DESIGNATION OF SENIOR MARAD OFFICIAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall designate a senior official within the Maritime Administration to have the responsibility and authority to carry out the terms and conditions set forth under section 1111 of title XI the Merchant Marine Act, 1936, as added by subsection (a). The Secretary shall make the designation of that official known through a public announcement in a national periodical.

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[14] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.
[15] 10 U.S.C. 2491 note.
[16] 10 U.S.C. 2501 note.
[17] Sec. 1355(a) added a new sec. 1111 to the Merchant Marine Act, 1936, relating to the "Authority To Guarantee Obligations for Eligible Export Vessels".
[18] 46 U.S.C. app. 1279d note.

TITLE XIV—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Defense Burden Sharing

SEC. 1401. DEFENSE BURDENS AND RESPONSIBILITIES.

(a) FINDINGS.—Congress makes the following findings:

(1) Since fiscal year 1985, the budget of the Department of Defense has declined by 34 percent in constant fiscal year 1985 dollars.

(2) During the past few years, the United States military presence overseas has declined significantly in the following ways:

(A) Since fiscal year 1986, the number of United States military personnel permanently stationed overseas has declined by almost 200,000.

(B) From fiscal year 1989 to fiscal year 1994, spending by the United States to support the stationing of United States military forces overseas will have declined by 36 percent.

(C) Since January 1990, the Department of Defense has announced the closure, reduction, or transfer to standby status of 840 United States military facilities overseas, which is approximately a 50 percent reduction in the number of such facilities.

(3) The United States military presence overseas will continue to decline as a result of actions by the executive branch and as a result of the following provisions of law:

(A) Section 1302 of the National Defense Authorization Act for Fiscal Year 1993, which requires a 40 percent reduction by September 30, 1996, in the number of United States military personnel permanently stationed ashore in overseas locations.

(B) Section 1303 of the National Defense Authorization Act for Fiscal Year 1993, which provides that no more than 100,000 United States military personnel may be permanently stationed ashore in NATO member countries after September 30, 1996.

(C) Section 1301 of the National Defense Authorization Act for Fiscal Year 1993, which reduced the spending proposed by the Department of Defense for overseas basing activities during fiscal year 1993 by $500,000,000.

(D) Sections 913 and 915 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, which directed the President to develop a plan to gradually reduce the United States military force structure in East Asia.

(4) The East Asia Strategy Initiative, which was developed in response to sections 913 and 915 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, has resulted in the withdrawal of 12,000 United States military personnel from Japan and the Republic of Korea since fiscal year 1990.

(5) In response to actions by the executive branch and the Congress, allied countries in which United States military personnel are stationed and alliances in which the United States

participates have agreed to reduce the costs incurred by the United States in basing military forces overseas in the following ways:

(A) Under the 1991 Special Measures Agreement between Japan and the United States, Japan will pay by 1995 almost all yen-denominated costs of stationing United States military personnel in Japan.

(B) The Republic of Korea has agreed to pay by 1995 one-third of the won-based costs incurred by the United States in stationing United States military personnel in the Republic of Korea.

(C) The North Atlantic Treaty Organization (NATO) has agreed that the NATO Infrastructure Program will adapt to support post-Cold War strategy and could pay the annual operation and maintenance costs of facilities in Europe and the United States that would support the reinforcement of Europe by United States military forces and the participation of United States military forces in peacekeeping and conflict prevention operations.

(D) Such allied countries and alliances have agreed to share more fully the responsibilities and burdens of providing for mutual security and stability through steps such as the following:

(i) The Republic of Korea has assumed the leadership role regarding ground combat forces for the defense of the Republic of Korea.

(ii) NATO has adopted the new mission of conducting peacekeeping operations and is, for example, providing land, sea, and air forces for United Nations efforts in the former Yugoslavia.

(iii) The countries of western Europe are contributing substantially to the development of democracy, stability, and open market societies in eastern Europe and the former Soviet Union.

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

(1) the forward presence of United States military personnel stationed overseas continues to be important to United States security interests;

(2) that forward presence facilitates efforts to pursue United States security interests on a collective basis rather than pursuing them on a far more costly unilateral basis or receding into isolationism;

(3) the bilateral and multilateral arrangements and alliances in which that forward presence plays a part must be further adapted to the security environment of the post-Cold War period;

(4) the cost-sharing percentages for the NATO Infrastructure Program should be reviewed with the aim of reflecting current economic, political, and military realities and thus reducing the United States cost-sharing percentage; and

(5) the amounts obligated to conduct United States overseas basing activities should decline significantly in fiscal year 1994 and in future fiscal years as—

(A) the number of United States military personnel stationed overseas continues to decline; and

(B) the countries in which United States military personnel are stationed and the alliances in which the United States participates assume an increased share of United States overseas basing costs.

(c)[19] REDUCING UNITED STATES OVERSEAS BASING COSTS.—(1) In order to achieve additional savings in overseas basing costs, the President should—

(A) continue with the reductions in United States military presence overseas as required by sections 1302 and 1303 of the National Defense Authorization Act for Fiscal Year 1993; and

(B) intensify efforts to negotiate a more favorable host-nation agreement with each foreign country to which this paragraph applies under paragraph (3)(A).

(2) For purposes of paragraph (1)(B), a more favorable host-nation agreement is an agreement under which such foreign country—

(A) assumes an increased share of the costs of United States military installations in that country, including the costs of—

(i) labor, utilities, and services;

(ii) military construction projects and real property maintenance;

(iii) leasing requirements associated with the United States military presence; and

(iv) actions necessary to meet local environmental standards;

(B) relieves the United States of all tax liability that, with respect to forces located in that country, is incurred by the Armed Forces of the United States under the laws of that country and the laws of the community where those forces are located; and

(C) ensures that goods and services furnished in that country to the Armed Forces of the United States are provided at minimum cost and without imposition of user fees.

(3)(A) Except as provided in subparagraph (B), paragraph (1)(B) applies with respect to—

(i) each country of the North Atlantic Treaty Organization (other than the United States); and

(ii) each other foreign country with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in that country or the placement of combat equipment of the United States in that country.

(B) Paragraph (1) does not apply with respect to—

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[19] Sec. 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) provided the following:

"(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that by September 30, 1996, those nations have assumed 37.5 percent of such costs.".

(i) a foreign country that receives assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) (relating to the foreign military financing program) or under the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); or

(ii) a foreign country that has agreed to assume, not later than September 30, 1996, at least 75 percent of the nonpersonnel costs of United States military installations in the country.

(d) OBLIGATIONAL LIMITATION.—(1) The total amount appropriated to the Department of Defense for Military Personnel, for Operation and Maintenance, and for military construction (including construction and improvement of military family housing) that is obligated to conduct overseas basing activities during fiscal year 1994 may not exceed $16,915,400,000 (such amount being the amount appropriated for such purposes for fiscal year 1993 reduced by $3,300,000,000), except to the extent provided by the Secretary of Defense under paragraph (3).

(2) For purposes of this subsection, the term ''overseas basing activities'' means the activities of the Department of Defense for which funds are provided through appropriations for Military Personnel, for Operation and Maintenance (including appropriations for family housing operations), and for military construction (including construction and improvement of military family housing) for the payment of costs for Department of Defense overseas military units and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(3) The Secretary of Defense may increase the amount of the limitation under paragraph (1) by such amount or amounts as the Secretary determines to be necessary in the national interest, but not to exceed a total increase of $582,700,000. The Secretary may not increase the amount of such limitation under the preceding sentence until the Secretary provides notice to Congress of the Secretary's intent to authorize such an increase and a period of 15 days elapses after the day on which such notice is provided.

(e) ALLOCATIONS OF SAVINGS.—Any amounts appropriated to the Department of Defense for fiscal year 1994 for the purposes covered by subsection (d)(1) that are not available to be used for those purposes by reason of the limitation in that subsection shall be allocated by the Secretary of Defense for operation and maintenance and for military construction activities of the Department of Defense at military installations and facilities located inside the United States.

SEC. 1402.[20] BURDEN SHARING CONTRIBUTIONS FROM DESIGNATED COUNTRIES AND REGIONAL ORGANIZATIONS. * * *

Subtitle B—North Atlantic Treaty Organization

SEC. 1411. FINDINGS, SENSE OF CONGRESS, AND REPORT REQUIREMENT CONCERNING NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—The Congress makes the following findings:

[20] Sec. 1402 inserted a revised version of section 1045 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1465), into 10 U.S.C. as

Continued

(1) The North Atlantic Treaty Organization (NATO) has successfully met the challenge of helping to maintain the peace, security, and freedom of the United States and its NATO allies for more than 40 years.

(2) The national security interests of the United States have been well served by the process of consultation, coordination, and military cooperation in the NATO framework.

(3) Recent history has witnessed radical changes in the international security environment, including the fall of the Berlin Wall, the unification of Germany, the disbanding of the Warsaw Pact and the disintegration of the Soviet Union.

(4) The military threats which NATO was established to deter have greatly diminished with the end of the Cold War.

(5) The post-Cold War security situation continues to present a wide array of challenges to United States national interests, many of which interests the United States shares with its allies in Europe and Canada.

(6) The international community may prove capable of deterring many threats to the common peace if it can respond decisively to aggression.

(7) The United States must share the responsibilities and the burdens of pursuing international security and stability with other nations.

(8) Several of the newly democratic nations of Central and Eastern Europe and the former Soviet Union have expressed interest in seeking membership in NATO.

(9) Many of the security challenges facing the post-Cold War world would be best handled through coherent multilateral responses.

(10) The United States should never send its military forces into combat unless they are provided with the best opportunity to accomplish their objectives with as little risk as possible.

(11) Military interventions against antagonistic armed forces cannot be conducted safely or effectively on a multilateral basis unless such operations are jointly planned in advance and are executed by units which have trained together and are familiar with each others' operational procedures.

(12) NATO is currently the only organization with the experience, trained staff, and infrastructure necessary to support military cooperation with the major military allies of the United States.

(13) The NATO allies already have volunteered to consider requests from the United Nations and the Conference on Security and Cooperation in Europe for assistance in maintaining the peace.

(14) Justification of the relevance of NATO in the post-Cold War world will depend largely upon the alliance's ability to adapt its mission, area of responsibility, and procedures to the new security environment.

(15) Justification of future United States support for the alliance and for a United States military presence in Europe will

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section 2350j, titled "Burden sharing contributions by designated countries and regional organizations".

depend upon NATO's ability to address those security interests which the United States shares with its allies in Europe and Canada.

(16) The meeting of the NATO heads of state scheduled for January 1994, presents an excellent opportunity for the President to articulate a new, broader security mission for the alliance in the post-Cold War world, one which will enable it to address a wider array of threats to its members' interests and which will help to share more effectively the burden of international security requirements.

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

(1) old threats to the security of the United States and its allies in the North Atlantic Treaty Organization having greatly diminished, and new, more diverse challenges having arisen (including ethno-religious conflict in Central and Eastern Europe and the former Soviet Union and the proliferation of weapons of mass destruction in regions proximate to alliance territory), NATO's mission must be redefined so that it may respond to such challenges to its members' security even when those challenges emanate from beyond the geographic boundaries of its members' territories;

(2) NATO should review its consultative mechanisms in order to maximize its ability to marshal political, diplomatic, social, and economic solidarity, buttressed by credible military capability, and to bring the full weight and scope of its cooperative efforts to bear in addressing the new challenges; and

(3) future United States military involvement in, and contributions to, NATO should be determined in relation to the alliance's success or failure in adapting itself to confronting the challenges of the post-Cold War world.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit a report to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.[21] The report shall contain recommendations on the following:

(1) The manner in which NATO can formulate and implement a strategy to address the new, more disparate threats to the security of its members.

(2) The manner in which NATO should continue to adapt its consultative process, including efforts to extend that process to the new democracies of Central and Eastern Europe and the former Soviet Union, so as to enhance its political, diplomatic, social, economic, and military efforts to project stability eastward and maximize its capabilities in crisis prevention and crisis management.

(3) The feasibility of having NATO conduct security operations beyond the geographic boundaries of the alliance.

[21] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provides that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

(4) The manner in which NATO should restructure its forces, training and equipment for the new security environment, including with regard to multinational peacekeeping activities.

(5) The desirability of expanding the alliance to include traditionally neutral nations or the new democratic nations of Central and Eastern Europe and the former Soviet Union that wish to join NATO.

(6) The proper size and composition of United States forces to be deployed in Europe to assist in the implementation of NATO's new mandate and possible reduction in United States military deployments in Europe in the event of the alliance's failure to adopt a new mandate.

(7) The structure and organization of NATO headquarters, with particular attention to the need to reinvigorate the NATO Military Committee.

(8) The extent to which NATO liaison teams should be assigned to the United Nations and the Conference on Security and Cooperation in Europe so as to facilitate better coordination among these organizations, especially in regard to crisis prevention and crisis management.

(9) The desirability of having additional NATO forces train in North America in a manner supportive of NATO's proposed new strategy.

(10) The structure of NATO's military command, with particular attention to the need to make NATO's Rapid Reaction Force a credible deterrent to regional aggression.

(11) The levels of United States, European, and Canadian defense budgets and their ability to finance forces consistent with the implementation of NATO's new mandate.

SEC. 1412. MODIFICATION OF CERTAIN REPORT REQUIREMENTS.

(a)–(b) * * *

(c) FINDING AND SENSE OF CONGRESS.—(1) The Congress finds that the Secretary of Defense did not submit to Congress in a timely manner the report on allied contributions to the common defense required under section 1003(c) of the National Defense Authorization Act, 1985 (Public Law 98–525; 22 U.S.C. 1928 note), to be submitted not later than April 1, 1993.

(2) It is the sense of Congress that the timely submission of such report to Congress each year is essential to the deliberation by Congress concerning the annual defense program.

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SEC. 1422. REPORT ON EFFECT OF INCREASED USE OF DUAL-USE TECHNOLOGIES ON ABILITY TO CONTROL EXPORTS.

(a) REPORT REQUIREMENT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing what effect the increased use of dual-use and commercial technologies and items by the Department of Defense could have on the ability of the United States to control adequately the export of sensitive dual-use and military technologies and items to nations to whom the receipt of such technologies is contrary to United States national security interests.

(b) EFFECT ON DEFENSE PROGRAMS.—The report required by subsection (a) shall include—

(1) an assessment of the national security implications of any lowering of licensing controls on the export of dual-use items and technology, to include an assessment of the effect such lowering of controls could have on operational United States defense programs and capabilities and planned United States defense programs and capabilities;

(2) a description of the steps the Secretary of Defense intends to take to ensure that any decontrol of dual-use items and technology does not place at risk the technology and defense capability lead that the United States currently enjoys; and

(3) a description of the steps the Department of Defense intends to take to mitigate any possible increase in the proliferation threat resulting from decontrol of dual-use items and technology.

(c) CONSULTATION.—The report required by subsection (a) shall be prepared in consultation with the Director of Central Intelligence.

SEC. 1423. EXTENSION OF LANDMINE EXPORT MORATORIUM.

(a) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers around the world. Hundreds of thousands of noncombatant civilians, including children, have been the primary victims. Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing massive suffering to civilian populations.

(2) Tens of millions of landmines have been strewn in at least 62 countries, often making whole areas uninhabitable. The Department of State estimates that there are more than 10,000,000 landmines in Afghanistan, 9,000,000 in Angola, 4,000,000 in Cambodia, 3,000,000 in Iraqi Kurdistan, and 2,000,000 each in Somalia, Mozambique, and the former Yugoslavia. Hundreds of thousands of landmines were used in conflicts in Central America in the 1980s.

(3) Advanced technologies are being used to manufacture sophisticated mines which can be scattered remotely at a rate of 1,000 per hour. These mines, which are being produced by many industrialized countries, were found in Iraqi arsenals after the Persian Gulf War.

(4) At least 300 types of anti-personnel landmines have been manufactured by at least 44 countries, including the United States. However, the United States is not a major exporter of landmines. During the 10 years from 1983 through 1992, the United States approved 10 licenses for the commercial export of anti-personnel landmines with a total value of $980,000 and the sale under the Foreign Military Sales program of 108,852 anti-personnel landmines.

(5) The United States signed, but has not ratified, the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. Protocol

II of the Convention, otherwise known as the Landmine Protocol, prohibits the indiscriminate use of landmines.

(6) When it signed the 1980 Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(7) The United States also indicated that it had supported procedures to enforce compliance, which were omitted from the Convention's final draft. The United States stated: "The United States strongly supported proposals by other countries during the Conference to include special procedures for dealing with compliance matters, and reserves the right to propose at a later date additional procedures and remedies, should this prove necessary, to deal with such problems.".

(8) The lack of compliance procedures and other weaknesses have significantly undermined the effectiveness of the Landmine Protocol. Since it entered into force on December 2, 1983, the number of civilians maimed and killed by anti-personnel landmines has multiplied.

(9) Since October 23, 1992, when a one-year moratorium on sales, transfers, and exports by the United States of anti-personnel landmines was enacted into law (in section 1365 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C. 2778 note)), the European Parliament has issued a resolution calling for a five year moratorium on sales, transfers, and exports of anti-personnel landmines and the Government of France has announced that it has ceased all sales, transfers, and exports of anti-personnel landmines.

(10) On December 2, 1993, 10 years will have elapsed since the 1980 Convention entered into force, triggering the right of any party to request a United Nations conference to review the Convention. Amendments to the Landmine Protocol may be considered at that time. A formal request has been made to the United Nations Secretary General for a review conference. With necessary preparations and consultations among governments, a review conference is not expected to be convened before late 1994 or early 1995.

(11) The United States should continue to set an example for other countries in such negotiations by extending the moratorium on sales, transfers, and exports of anti-personnel landmines for an additional three years. A moratorium of that duration would extend the prohibition on the sale, transfer, and export of anti-personnel landmines a sufficient time to take into account the results of a United Nations review conference.

(b) STATEMENT OF POLICY.—

(1) It is the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the manufacture, possession and use, of anti-personnel landmines.

(2) It is the sense of the Congress that—

(A) the President should submit the 1980 Convention on Certain Conventional Weapons to the Senate for ratification; and

(B) the United States should—

(i) participate in a United Nations conference to review the Landmine Protocol; and

(ii) actively seek to negotiate under United Nations auspices a modification of the Landmine Protocol, or another international agreement, to prohibit the sale, transfer, or export of anti-personnel landmines and to further limit the manufacture, possession, and use of anti-personnel landmines.

(c) * * *

(d) DEFINITION.—(1)[22] For purposes of this section, the term "anti-personnel landmine" means any of the following:

(A)[22] Any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person.

(B)[22] Any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act.

(C)[22] Any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated[23] automatically after a lapse of time.

(2) The term does not include command detonated antipersonnel land mines (such as the M18A1 "Claymore" mine).

Subtitle D—Other Matters

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SEC. 1432.[24] * * * [Repealed—1996]

SEC. 1433.[25] CONSENT OF CONGRESS TO SERVICE BY RETIRED MEMBERS IN MILITARY FORCES OF NEWLY DEMOCRATIC NATIONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is in the national security interest of the United States to promote democracy throughout the world.

(2) The armed forces of newly democratic nations often lack the democratic traditions that are a hallmark of the Armed Forces of the United States.

(3) The understanding of military roles and missions in a democracy is essential for the development and preservation of democratic forms of government.

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[22] Sec. 1401 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 488) inserted para. designation "(1)"; redesignated paras. (1), (2), and (3) as subparas. (A), (B), and (C), and added a new para. (2).

[23] Sec. 1401(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 488) struck out "by remote control or" after "is actuated".

[24] Sec. 1061(n) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 443) repealed sec. 1432, relating to American diplomatic facilities in Germany.

[25] 10 U.S.C. 1058 note.

(4) The service of retired members of the Armed Forces of the United States in the armed forces of newly democratic nations could lead to a better understanding of military roles and missions in a democracy.

(b)[26] CONSENT OF CONGRESS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section: * * *

(c) CONFORMING CROSS REFERENCE.—* * *

(d) EFFECTIVE DATE.—Section 1058 of title 10, United States Code, as added by subsection (a), shall take effect as of January 1, 1993.

SEC. 1434. SEMIANNUAL REPORT ON EFFORTS TO SEEK COMPENSATION FROM GOVERNMENT OF PERU FOR DEATH AND WOUNDING OF CERTAIN UNITED STATES SERVICEMEN.

(a) FINDINGS.—The Congress finds that—

(1) the United States Government has not made adequate efforts to seek the payment of compensation by the Government of Peru for the death and injuries to United States military personnel resulting from the attack by aircraft of the military forces of Peru on April 24, 1992, against a United States Air Force C–130 aircraft operating off the coast of Peru; and

(2) in failing to make such efforts adequately, the United States Government has failed in its obligation to support the servicemen and their families involved in the incident and generally to support members of the Armed Forces carrying out missions on behalf of the United States.

(b) SEMIANNUAL REPORT.—Not later than December 1 and June 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Affairs of the House of Representatives[27] and the Committees on Armed Services and Foreign Relations of the Senate a report on the efforts made by the Government of the United States during the preceding six-month period to seek the payment of fair and equitable compensation by the Government of Peru (1) to the survivors of Master Sergeant Joseph Beard, Jr., United States Air Force, who was killed in the attack described in subsection (a), and (2) to the other crew members who were wounded in the attack and survived.

(c) TERMINATION OF REPORT REQUIREMENT.—The requirement in subsection (b) shall terminate upon certification by the Secretary of Defense to Congress that the Government of Peru has paid fair and equitable compensation as described in subsection (b).

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[26] Sec. 1433(b) added sec. 1058 to 10 U.S.C., relating to "military service of retired members with newly democratic nations: consent of Congress".

[27] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

TITLE XV—INTERNATIONAL PEACEKEEPING AND HUMANITARIAN ACTIVITIES

Subtitle A—Assistance Activities

SEC. 1501. GENERAL AUTHORIZATION OF SUPPORT FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) AUTHORIZED SUPPORT FOR FISCAL YEAR 1994.—The Secretary of Defense may provide assistance for international peacekeeping activities during fiscal year 1994, in accordance with section 403 of title 10, United States Code, in an amount not to exceed $300,000,000. Any assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1994 for operation and maintenance or (notwithstanding the second sentence of subsection (b) of that section) from balances in working capital funds.

(b)–(c) * * *

SEC. 1502. REPORT ON MULTINATIONAL PEACEKEEPING AND PEACE ENFORCEMENT.

(a) REPORT REQUIRED.—Not later than April 1, 1994, the President, after seeking the views of the Secretary of State and the Secretary of Defense, shall submit to the committees specified in subsection (c) a report on United States policy on multinational peacekeeping and peace enforcement.

(b) CONTENT OF REPORT.—The report shall contain a comprehensive analysis and discussion of the following matters:

(1) Criteria for participation by the United States in multinational missions through the United Nations, the North Atlantic Treaty Organization, or other regional alliances and international organizations.

(2) Proposals for expanding peacekeeping activities by the North Atlantic Treaty Organization and the North Atlantic Cooperation Council, including multinational operations, multinational training, and multinational doctrine development.

(3) Proposals for establishing regional entities, on an ad hoc basis or a permanent basis, to conduct peacekeeping or peace enforcement operations under a United Nations mandate as an alternative to direct United Nations involvement in such operations.

(4) A summary of progress made by the United States, in consultation with other nations, to develop doctrine for peacekeeping and peace enforcement operations and plans to conduct exercises with other nations for such purposes.

(5) Proposals for criteria for determining whether to commence new peacekeeping missions, including, in the case of any such mission, criteria for determining the threat to international peace to be addressed by the mission, the precise objectives of the mission, the costs of the mission, and the proposed endpoint of the mission.

(6) The principles, criteria, or considerations guiding decisions to place United States forces under foreign command or to decline to put United States forces under foreign command.

(7) Proposals to establish opportunities within the Armed Forces for voluntary assignment to duty in units designated for

assignment to multinational peacekeeping and peace enforcement missions.

(8) Proposals to modify the budgetary and financial policies of the United Nations for peacekeeping and peace enforcement missions, including—

(A) proposals regarding the structure and control of budgetary procedures;

(B) proposals regarding United Nations accounting procedures; and

(C) specific proposals—

(i) to establish a revolving capital fund to finance the costs of starting new United Nations operations approved by the Security Council;

(ii) to establish a requirement that United Nations member nations pay one-third of the anticipated first-year costs of a new operation immediately upon Security Council approval of that operation;

(iii) to establish a requirement that United Nations member nations be charged interest penalties on late payment of their assessments for peacekeeping or peace enforcement missions;

(iv) regarding possible sources of international revenue for United Nations peacekeeping and peace enforcement missions;

(v) regarding the need to lower the United States peacekeeping assessment to the same percentage as the United States assessment to the regular United Nations budget; and

(vi) regarding a revision of the current schedule of payments per servicemember assigned to a peacekeeping mission in order to bring payments more in line with costs.

(9) Proposals to establish a small United Nations Rapid Deployment Force under the direction of the United Nations Security Council in order to provide for quick intervention in disputes for the purpose of preventing a larger outbreak of hostilities.

(10) Proposals for reorganization of the United Nations Secretariat to provide improved management of peacekeeping operations, including the establishment of a Department of Peace Operations (DPO) and the transfer of the Operations Division from Field Operations into such a department.

(11) Requirement of congressional approval for participation of United States Armed Forces in multinational peacekeeping and peace enforcement missions, including the applicability of the War Powers Resolution and the United Nations Participation Act.

(12) Proposals that the United States and other United Nations member nations negotiate special agreements under article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the United Nations Security Council for the purposes stated in article 42 of that charter, not only on an ad hoc basis, but also

on a permanent on-call basis for rapid deployment under Security Council authorization.

(13) A proposal that member nations of the United Nations commit to keep equipment specified by the Secretary General of the United Nations available for immediate sale, loan, or donation to the United Nations when required.

(14) A proposal that member nations of the United Nations make airlift and sealift capacity available to the United Nations without charge or at lower than commercial rates.

(15) An evaluation of the current capabilities and future needs of the United Nations for improved command, control, communications, and intelligence infrastructure, including facilities, equipment, procedures, training, and personnel, and an analysis of United States capabilities and experience in such matters that could be applied or offered directly to the United Nations.

(16) An evaluation of the potential role of the Military Staff Committee of the United Nations Security Council.

(17) Training requirements for foreign military personnel designated to participate in peacekeeping operations, including an assessment of the nation, nations, or organizations that might best provide such training and at what cost.

(18) Any other information that may be useful to inform Congress on matters relating to United States policy and proposals on peacekeeping and peace enforcement missions.

(c) COMMITTEES TO RECEIVE REPORT.—The committees to which the report under this section are to be submitted are—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.[28]

SEC. 1503. MILITARY-TO-MILITARY CONTACT.

(a) CONTINUATION OF CERTAIN MILITARY-TO-MILITARY PROGRAMS.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense-wide activities, $10,000,000 shall be made available to continue efforts that were initiated by the commander of a United States unified command and approved by the chairman of the Joint Chiefs of Staff for military-to-military contacts and comparable activities that are designed to assist the military forces of other countries in understanding the appropriate role of military forces in a democratic society.

(b) LIMITATION.—Subsection (a) applies only to activities initiated by September 30, 1993, and only in the case of countries with which those activities had been initiated by that date.

SEC. 1504.[29] HUMANITARIAN AND CIVIC ASSISTANCE.

(a) REGULATIONS.—The regulations required to be prescribed under section 401 of title 10, United States Code, shall be prescribed not later than March 1, 1994. In prescribing such regula-

[28] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[29] 10 U.S.C. 401 note.

tions, the Secretary of Defense shall consult with the Secretary of State.

(b) LIMITATION ON USE OF FUNDS.—Section 401(c)(2) of title 10, United States Code, is amended by inserting before the period the following: ", except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance".

(c) NOTIFICATIONS REGARDING HUMANITARIAN RELIEF.—Any notification provided to the appropriate congressional committees with respect to assistance activities under section 2551 of title 10, United States Code, shall include a detailed description of any items for which transportation is provided that are excess nonlethal supplies of the Department of Defense, including the quantity, acquisition value, and value at the time of the transportation of such items.

(d) REPORT ON HUMANITARIAN ASSISTANCE ACTIVITIES.—(1) The Secretary of Defense shall submit to the appropriate congressional committees a report on the activities planned to be carried out by the Department of Defense during fiscal year 1995 under sections 401, 402, 2547, and 2551 of title 10, United States Code. The report shall include information, developed after consultation with the Secretary of State, on the distribution of excess nonlethal supplies transferred to the Secretary of State during fiscal year 1993 pursuant to section 2547 of that title.

(2) The report shall be submitted at the same time that the President submits the budget for fiscal year 1995 to Congress pursuant to section 1105 of title 31, United States Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—The funds authorized to be appropriated by section 301(18) shall be available to carry out humanitarian and civic assistance activities under sections 401, 402, and 2551 of title 10, United States Code.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives;[30] and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

Subtitle B—Policies Regarding Specific Countries

SEC. 1511.[31] SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) CODIFICATION OF EXECUTIVE BRANCH SANCTIONS.—The sanctions imposed on Serbia and Montenegro, as in effect on the date

[30] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[31] 50 U.S.C. 1701 note. Executive orders listed here may be found in *Legislation on Foreign Relations Through 1996*, vol. III.

In a memorandum for the Secretary of State on May 30, 1997, the President certified "that the waiver of the application of the prohibition in section 1511(b) of Public Law 103–160 and

of the enactment of this Act, that were imposed by or pursuant to the following directives of the executive branch shall (except as provided under subsections (d) and (e)) remain in effect until changed by law:

(1) Executive Order 12808 of May 30, 1992, as continued in effect on May 25, 1993.

(2) Executive Order 12810 of June 5, 1992.

(3) Executive Order 12831 of January 15, 1993.

(4) Executive Order 12846 of April 25, 1993.

(5) Department of State Public Notice 1427, effective July 11, 1991.

(6) Proclamation 6389 of December 5, 1991 (56 Fed. Register 64467).

(7) Department of Transportation Order 92–5–38 of May 20, 1992.

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of the application of 540(a) of [Public Law 104–208] is necessary to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties, to the extent that such provisions apply to the furnishing of assistance to facilitate destruction of military equipment." [Presidential Determination No. 97–26; 62 F.R. 32015].

In a memorandum for the Secretaries of State, Treasury, and Transportation, the President, on December 27, 1995 (Presidential Determination No. 96–7; 61 F.R. 2887), determined that:

"the waiver or modification of the sanctions of Serbia and Montenegro that were imposed by or pursuant to the directives described in section 1511(a)(1–5) and (7–8) of the Act, in conformity with the provisions of United Nations Security Council Resolutions 1021 and 1022 of November 22, 1995, is necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

"Therefore, I hereby direct the Secretary of the Treasury to take appropriate action to suspend the application of the sanctions imposed on Serbia and Montenegro pursuant to Executive Order No. 12808 of May 30, 1992, Executive Order 12810 of June 5, 1992, Executive Order 12831 of January 15, 1993, and Executive Order 12846 of April 25, 1993, effective upon the transmittal of this determination to the Congress. The property and interests in property previously blocked remain blocked until provision is made to address claims or encumbrances, including the claims of the other successor states of the former Yugoslavia.

"I hereby direct the Secretary of Transportation to take appropriate action to suspend the application of the sanctions imposed pursuant to Department of Transportation Order 92–5–38 of May 20, 1992, Department of Transportation Order 92–6–27 of June 12, 1992, and Special Federal Aviation Regulation No. 66–2 of May 31, 1995 (14 C.F.R. Part 91, 60 Federal Register 28477), effective upon the transmittal of this determination to the Congress.

"I hereby authorize the Secretary of State to take appropriate action to suspend the application of the sanctions imposed pursuant to Department of State Public Notice 1427 of July 11, 1991, at the appropriate time in conformity with the provisions of United Nations Security Council Resolution 1021 of November 22, 1995.

"The national emergency declared in Executive Order No. 12808 and expanded in Executive Order No. 12934 shall continue in effect.".

Sec. 540 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of Public Law 104–208; 110 Stat. 3009), provided the following:

"RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO

"SEC. 540. (a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), with respect to Serbia or Montenegro, may cease to be effective, unless—

"(1) the President first submits to the Congress a certification described in subsection (b); and

"(2) the requirements of section 1511 of that Act are met.

"(b) CERTIFICATION.—A certification described in this subsection is a certification that—

"(1) there is substantial progress toward—

"(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

"(B) the creation of an international protectorate for Kosova;

"(2) there is substantial improvement in the human rights situation in Kosova;

"(3) international human rights observers are allowed to return to Kosova; and

"(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

"(c) WAIVER AUTHORITY.—The President may waive the application in whole or in part, of subsection (a) if the President certifies to the Congress that the President has determined that the waiver is necessary to meet emergency humanitarian needs or to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties."

(8) Federal Aviation Administration action of June 19, 1992 (14 C.F.R. Part 91).

(b) PROHIBITION ON ASSISTANCE.—No funds appropriated or otherwise made available by law may be obligated or expended on behalf of the government of Serbia or the government of Montenegro.

(c) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any assistance from that institution to the government of Serbia or the government of Montenegro, except for basic human needs.

(d) EXCEPTION.—Notwithstanding any other provision of law, the President is authorized and encouraged to exempt from sanctions imposed against Serbia and Montenegro that are described in subsection (a) those United States-supported programs, projects, or activities that involve reform of the electoral process, the development of democratic institutions or democratic political parties, or humanitarian assistance (including refugee care and human rights observation).

(e) WAIVER AUTHORITY.—(1) The President may waive or modify the application, in whole or in part, of any sanction described in subsection (a), the prohibition in subsection (b), or the requirement in subsection (c).

(2) Such a waiver or modification may only be effective upon certification by the President to Congress that the President has determined that the waiver or modification is necessary (A) to meet emergency humanitarian needs, or (B) to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

SEC. 1512.[32] INVOLVEMENT OF ARMED FORCES IN SOMALIA.

(a) SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD SOMALIA.—

(1) Since United States Armed Forces made significant contributions under Operation Restore Hope towards the establishment of a secure environment for humanitarian relief operations and restoration of peace in the region to end the humanitarian disaster that had claimed more than 300,000 lives.

(2) Since the mission of United States forces in support of the United Nations appears to be evolving from the establishment of "a secure environment for humanitarian relief operations," as set out in United Nations Security Council Resolution 794 of December 3, 1992, to one of internal security and nation building.

(b) STATEMENT OF CONGRESSIONAL POLICY.—

(1) CONSULTATION WITH THE CONGRESS.—The President should consult closely with the Congress regarding United States policy with respect to Somalia, including in particular the deployment of United States Armed Forces in that country, whether under United Nations or United States command.

(2) PLANNING.—The United States shall facilitate the assumption of the functions of United States forces by the United Nations.

[32] 50 U.S.C. 1541 note.

(3) REPORTING REQUIREMENT.—

(A) The President shall ensure that the goals and objectives supporting deployment of United States forces to Somalia and a description of the mission, command arrangements, size, functions, location, and anticipated duration in Somalia of those forces are clearly articulated and provided in a detailed report to the Congress by October 15, 1993.

(B) Such report shall include the status of planning to transfer the function contained in paragraph (2).

(4) CONGRESSIONAL APPROVAL.—Upon reporting under the requirements of paragraph (3) Congress believes the President should by November 15, 1993, seek and receive congressional authorization in order for the deployment of United States forces to Somalia to continue.

TITLE XVI—ARMS CONTROL MATTERS [33]

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TITLE XVII—CHEMICAL AND BIOLOGICAL WEAPONS DEFENSE

SEC. 1701.[34] CONDUCT OF THE CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM.

(a) GENERAL.—The Secretary of Defense shall carry out the chemical and biological defense program of the United States in accordance with the provisions of this section.

(b) MANAGEMENT AND OVERSIGHT.—In carrying out his responsibilities under this section, the Secretary of Defense shall do the following:

(1) Assign responsibility for overall coordination and integration of the chemical and biological warfare defense program and the chemical and biological medical defense program to a single office within the Office of the Secretary of Defense.

(2) Take those actions necessary to ensure close and continuous coordination between (A) the chemical and biological warfare defense program, and (B) the chemical and biological medical defense program.

(3) Exercise oversight over the chemical and biological defense program through the Defense Acquisition Board process.

(c) COORDINATION OF THE PROGRAM.—(1)[35] The Secretary of Defense shall designate the Army as executive agent for the Department of Defense to coordinate and integrate research, development, test, and evaluation, and acquisition, requirements of the military departments for chemical and biological warfare defense programs of the Department of Defense.

(2)[35] The Director of the Defense Advanced Research Projects Agency may conduct a program of basic and applied research and advanced technology development on chemical and biological warfare defense technologies and systems. In conducting such program,

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[33] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

[34] 50 U.S.C. 1522.

[35] Sec. 228(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) inserted para. designation "(1)" before "The Secretary" and added para. (2).

the Director shall seek to avoid unnecessary duplication of the activities under the program with chemical and biological warfare defense activities of the military departments and defense agencies and shall coordinate the activities under the program with those of the military departments and defense agencies.

(d) FUNDING.—(1) The budget for the Department of Defense for each fiscal year after fiscal year 1994 shall reflect a coordinated and integrated chemical and biological defense program for the Department of Defense.[36]

(2) Funding requests for the program (other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2))[37] shall be set forth in the budget of the Department of Defense for each fiscal year as a separate account, with a single program element for each of the categories of research, development, test, and evaluation, acquisition, and military construction. Amounts for military construction projects may be set forth in the annual military construction budget. Funds for military construction for the program in the military construction budget shall be set forth separately from other funds for military construction projects. Funding requests for the program may not be included in the budget accounts of the military departments.

(3)[38] The program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2) shall be set forth as a separate program element in the budget of that agency.

(4)[38] All funding requirements for the chemical and biological defense program shall be reviewed by the Secretary of the Army as executive agent pursuant to subsection (c).

(e) MANAGEMENT REVIEW AND REPORT.—(1) The Secretary of Defense shall conduct a review of the management structure of the Department of Defense chemical and biological warfare defense program, including—

(A) research, development, test, and evaluation;
(B) procurement;
(C) doctrine development;
(D) policy;
(E) training;
(F) development of requirements;
(G) readiness; and
(H) risk assessment.

(2) Not later than May 1, 1994, the Secretary shall submit to Congress a report that describes the details of measures being taken to improve joint coordination and oversight of the program and ensure a coherent and effective approach to its management.

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[36] Sec. 228(b)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) struck out "military departments" and inserted in lieu thereof "Department of Defense".

[37] Sec. 228(b)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) inserted "(other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2))" after "requests for the program".

[38] Sec. 228(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) redesignated para. (3) as para. (4) and inserted a new para. (3).

SEC. 1702.[39] CONSOLIDATION OF CHEMICAL AND BIOLOGICAL DEFENSE TRAINING ACTIVITIES.

The Secretary of Defense shall consolidate all chemical and biological warfare defense training activities of the Department of Defense at the United States Army Chemical School.

SEC. 1703.[40] ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL WARFARE DEFENSE.

(a) REPORT REQUIRED.—The Secretary of Defense shall include in the annual report of the Secretary under section 113(c) of title 10, United States Code, a report on chemical and biological warfare defense. The report shall assess—

(1) the overall readiness of the Armed Forces to fight in a chemical-biological warfare environment and shall describe steps taken and planned to be taken to improve such readiness; and

(2) requirements for the chemical and biological warfare defense program, including requirements for training, detection, and protective equipment, for medical prophylaxis, and for treatment of casualties resulting from use of chemical or biological weapons.

(b) MATTERS TO BE INCLUDED.—The report shall include information on the following:

(1) The quantities, characteristics, and capabilities of fielded chemical and biological defense equipment to meet wartime and peacetime requirements for support of the Armed Forces, including individual protective items.

(2) The status of research and development programs, and acquisition programs, for required improvements in chemical and biological defense equipment and medical treatment, including an assessment of the ability of the Department of Defense and the industrial base to meet those requirements.

(3) Measures taken to ensure the integration of requirements for chemical and biological defense equipment and material among the Armed Forces.

(4) The status of nuclear, biological, and chemical (NBC) warfare defense training and readiness among the Armed Forces and measures being taken to include realistic nuclear, biological, and chemical warfare simulations in war games, battle simulations, and training exercises.

(5) Measures taken to improve overall management and coordination of the chemical and biological defense program.

(6) Problems encountered in the chemical and biological warfare defense program during the past year and recommended solutions to those problems for which additional resources or actions by the Congress are required.

(7) A description of the chemical warfare defense preparations that have been and are being undertaken by the Department of Defense to address needs which may arise under article X of the Chemical Weapons Convention.

(8) A summary of other preparations undertaken by the Department of Defense and the On-Site Inspection Agency to pre-

[39] 50 U.S.C. 1522 note.
[40] 50 U.S.C. 1523.

pare for and to assist in the implementation of the convention, including activities such as training for inspectors, preparation of defense installations for inspections under the convention using the Defense Treaty Inspection Readiness Program, provision of chemical weapons detection equipment, and assistance in the safe transportation, storage, and destruction of chemical weapons in other signatory nations to the convention.

(9)[41] A description of any program involving the testing of biological or chemical agents on human subjects that was carried out by the Department of Defense during the period covered by the report, together with—

(A) a detailed justification for the testing;

(B) a detailed explanation of the purposes of the testing;

(C) a description of each chemical or biological agent tested; and

(D) the Secretary's certification that informed consent to the testing was obtained from each human subject in advance of the testing on that subject.

SEC. 1704.[42] SENSE OF CONGRESS CONCERNING FEDERAL EMERGENCY PLANNING FOR RESPONSE TO TERRORIST THREATS.

It is the sense of Congress that the President should strengthen Federal interagency emergency planning by the Federal Emergency Management Agency and other appropriate Federal, State, and local agencies for development of a capability for early detection and warning of and response to—

(1) potential terrorist use of chemical or biological agents or weapons; and

(2) emergencies or natural disasters involving industrial chemicals or the widespread outbreak of disease.

SEC. 1705.[43] AGREEMENTS TO PROVIDE SUPPORT TO VACCINATION PROGRAMS OF DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense may enter into agreements with the Secretary of Health and Human Services to provide support for vaccination programs of the Secretary of Health and Human Services in the United States through use of the excess peacetime biological weapons defense capability of the Department of Defense.

(b) REPORT.—Not later than February 1, 1994, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility of providing Department of Defense support for vaccination programs under subsection (a) and shall identify resource requirements that are not within the Department's capability.

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[41] Sec. 1078(f) of Public Law 105–85 (111 Stat. 1915) added para. (9).
[42] 50 U.S.C. 1522 note.
[43] 50 U.S.C. 1524.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

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TITLE XXXV—PANAMA CANAL COMMISSION[44]

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[44] For text, see *Legislation on Foreign Relations Through 1997*, vol. II.

i. Department of Defense Appropriations Act, 1994

Partial text of Public Law 103–139 [H.R. 3116], 107 Stat. 1418, approved November 11, 1993

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE VIII

GENERAL PROVISIONS

* * * * * * *

SEC. 8033. During the current fiscal year and thereafter, of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union or its successor entities in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further,* That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members or inspection team members of the successor entities of the Soviet Union engaged in activities related to the INF Treaty: *Provided further,* That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

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SEC. 8056.[1] During the current fiscal year and thereafter, there is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided,* That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense.

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SEC. 8099. (a) FINDINGS.—The Congress finds that—

(1) the United States Government has not made adequate efforts to seek the payment of compensation by the government of Peru for the death and injuries to United States military personnel resulting from the attack by aircraft of the military forces of Peru on April 24, 1992, against a United States Air Force C–130 aircraft operating off the coast of Peru; and

(2) in failing to make such efforts adequately, the United States Government has failed in its obligation to support the servicemen and their families involved in the incident and generally to support members of the Armed Forces carrying out missions on behalf of the United States.

(b) SEMIANNUAL REPORT.—The Secretary of Defense shall submit a report to Congress on December 1 and June 1 of each year on the efforts made by the Government of the United States during the preceding six-month period to seek the payment of fair and equitable compensation by the Government of Peru (1) to the survivors of Master Sergeant Joseph Beard, Jr., United States Air Force, who was killed in the attack described in subsection (a), and (2) to the other crew members who were wounded in the attack and survived.

(c) TERMINATION OF REPORT REQUIREMENT.—The requirement in subsection (b) shall terminate upon certification by the Secretary of Defense to Congress that the Government of Peru has paid fair and equitable compensation as described in subsection (b).

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This Act may be cited as the "Department of Defense Appropriations Act, 1994".

[1] 21 U.S.C. 873 note. Sec. 104(e) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2250) provided the following:

"(e) NATIONAL DRUG INTELLIGENCE CENTER.—

j. National Defense Authorization Act for Fiscal Year 1993

Partial text of Public Law 102–484 [H.R. 5006], 106 Stat. 2315, approved October 23, 1992; amended by Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in section 301 of H.R. 2880, 101 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 104–208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1993".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Defense Conversion, Reinvestment, and Transition Assistance

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services[1] and the Committees on Appropriations of the Senate and House of Representatives.

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1993 under the provisions of this Act is $274,121,787,000, of which the total amount authorized to be appropriated for fiscal year 1993 under the provisions of—

(1) division A is $253,654,264,000;
(2) division B is $8,389,833,000; and
(3) division C is $12,077,690,000.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

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SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), in the amount of $515,300,000.

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Subtitle B—Army Programs

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SEC. 114. ARMORED VEHICLE UPGRADES.

Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following:[2]

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Subtitle G—Chemical Demilitarization Program

SEC. 171.[3] CHANGE IN CHEMICAL WEAPONS STOCKPILE ELIMINATION DEADLINE. * * *

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SEC. 178.[4] SENSE OF CONGRESS CONCERNING INTERNATIONAL CONSULTATION AND EXCHANGE PROGRAM.

It is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should establish, with other nations that are anticipated to be signatories to an international agreement or treaty banning chemical weapons, a program under which consultation and exchange concerning chemical weapons disposal technology could be enhanced. Such a program shall be used to facilitate the exchange of technical information and advice concerning the disposal of chemical weapons among signatory nations and to further the development of safer, more cost-effective methods for the disposal of chemical weapons.

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[2] For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.
[3] Sec. 171 amended sec. 1412(b)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)(5)).
[4] 50 U.S.C. 1521 note.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

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SEC. 205. ENDOWMENT FOR DEFENSE INDUSTRIAL COOPERATION.

(a) REPORT.—The Secretary of Defense shall prepare a report on the benefits and limitations of establishing a United States-Israel Endowment for Defense Industrial Cooperation with the following objectives:

(1) To promote and support joint defense industrial activities of mutual benefit to the United States and Israel.

(2) To promote and support joint commercialization of defense technologies of mutual benefit to the United States and Israel.

(3) To strengthen a mutually beneficial defense trade program between the United States and Israel.

(b) DEADLINE.—The Secretary shall submit to Congress the report required by subsection (a) no later than August 1, 1993.

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Subtitle C—Missile Defense Programs

SEC. 231.[5] THEATER MISSILE DEFENSE INITIATIVE.

(a) ESTABLISHMENT OF THEATER MISSILE DEFENSE INITIATIVE.—The Secretary of Defense shall establish a Theater Missile Defense Initiative office within the Department of Defense. All theater and tactical missile defense activities of the Department of Defense (including all programs, projects, and activities formerly associated with the Theater Missile Defense program element of the Strategic Defense Initiative) shall be carried out under the Theater Missile Defense Initiative.

(b) FUNDING FOR FISCAL YEAR 1993.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $935,000,000 may be obligated for activities of the Theater Missile Defense Initiative, of which not less than $90,000,000 shall be made available for exploration of promising concepts for naval theater missile defense.

(c) REPORT.—When the President's budget for fiscal year 1994 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a report—

(1) setting forth the proposed allocation by the Secretary of funds for the Theater Missile Defense Initiative for fiscal year 1994, shown for each program, project, and activity;

(2) describing an updated master plan for the Theater Missile Defense Initiative that includes (A) a detailed consideration of plans for theater and tactical missile defense doctrine,

[5] 10 U.S.C. 2431 note.

training, tactics, and force structure, and (B) a detailed acquisition strategy which includes a consideration of acquisition and life-cycle costs through the year 2005 for the programs, projects, and activities associated with the Theater Missile Defense Initiative;

(3) assessing the possible near-term contribution and cost-effectiveness for theater missile defense of exoatmospheric capabilities, to include at a minimum a consideration of—

(A) the use of the Navy's Standard missile combined with a kick stage rocket motor and lightweight exoatmospheric projectile (LEAP); and

(B) the use of the Patriot missile combined with a kick stage rocket motor and LEAP.

(d) EFFECTIVE DATE.—The provisions of subsections (a), (b), and (c) shall be implemented not later than 90 days after the date of the enactment of this Act.

SEC. 232. STRATEGIC DEFENSE INITIATIVE FUNDING.

(a) TOTAL AMOUNT.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,039,800,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIC AMOUNTS FOR THE PROGRAM ELEMENTS.—Of the amount described in subsection (a)—

(1) not more than $2,039,800,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $300,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(3) not more than $300,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(4) not more than $400,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

(d) CONSTRUCTION OF AUTHORITY IN RELATION TO USER OPERATIONAL EVALUATION SYSTEM.—Nothing in this Act shall be construed to authorize the exercise of any option to fabricate or field elements of a User Operational Evaluation System at the initial anti-ballistic missile defense site.

SEC. 233. REPORTING REQUIREMENTS AND TRANSFER AUTHORITIES FOR TMDI AND SDI.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Theater Missile Defense Initiative and the Strategic Defense Initiative for fiscal year 1993. The report shall specify the amount of such funds allocated for each program, project, and activity of the Theater Missile Defense Initiative and the Strategic Defense Initiative and shall list each Strategic Defense Initiative program, project, and activity under the ap-

propriate program element and list each Theater Missile Defense Initiative program, project, and activity.

(b) TRANSFER AUTHORITIES.—

(1) IN GENERAL.—Before the submission of the report required under subsection (a) and notwithstanding the limitations set forth in sections 231(b) and 232(b) of this Act, the Secretary of Defense may transfer funds among the Strategic Defense Initiative program elements named in section 232(b) of this Act and from such elements to the Theater Missile Defense Initiative.

(2) LIMITATION.—The total amount that may be transferred to or from any program element named in section 232(b)—

(A) may not exceed 10 percent of the amount provided in such subsection for the program element from which the transfer is made; and

(B) may not result in an increase of more than 10 percent of the amount provided in section 232(b) for the Strategic Defense Initiative program element to which the transfer is made and may not result in an increase of more than 10 percent of the amount provided in section 231(b) for the Theater Missile Defense Initiative.

(3) RESTRICTION.—Transfer authority under paragraph (1) may not be used for a decrease in funds identified in section 231(b) for the Theater Missile Defense Initiative.

(4) MERGER AND AVAILABILITY.—Amounts transferred pursuant to paragraph (1) shall be merged with and be available for the same purposes as the amounts to which transferred.

SEC. 234.[6] REVISION OF THE MISSILE DEFENSE ACT OF 1991. * * *

SEC. 235. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS.

(a) USE OF FUNDS.—

(1) LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1993, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1993 or for any fiscal year before 1993, may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the July 1992 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the July 1992 SDIO Report.

(2) EXCEPTION.—The limitation under paragraph (1) shall not apply to funds transferred to or for the use of the Strategic

[6] Sec. 234 amended the Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 105 Stat. 1321). The Missile Defense Act of 1991 was subsequently repealed by Public Law 104–106. See secs. 231–238 of that Act for the Ballistic Missile Defense Act of 1995.

Defense Initiative for fiscal year 1993 if the transfer is made in accordance with section 1001 of this Act.

(b) DEFINITION.—In this section, the term "July 1992 SDIO Report" means the report entitled, "1992 Report to Congress on the Strategic Defense Initiative," prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1398; 10 U.S.C. 2431).

SEC. 236. LIMITATION REGARDING SUPPORT SERVICES CONTRACTS OF THE STRATEGIC DEFENSE INITIATIVE ORGANIZATION.

(a) LIMITATION.—Of the amounts that are appropriated to the Department of Defense for fiscal year 1993 pursuant to the authorizations of appropriations contained in this Act and are made available for the Strategic Defense Initiative Organization, not more than $135,000,000 may be expended for the procurement of support services.

(b) DEFINITION.—For purposes of subsection (a), the term "support services" means any of the following:

(1) Professional, administrative, and management support services.

(2) Special studies and analyses.

(3) Services contracted for under section 3109 of title 5, United States Code.

Subtitle D—Other Matters

SEC. 241. MEDICAL COUNTERMEASURES AGAINST BIOWARFARE THREATS.

(a) FUNDING.—Of the amounts appropriated pursuant to section 201 for fiscal year 1993, not more than $59,670,000 shall be available for the medical component of the Biological Defense Research Program (BDRP) of the Department of Defense.

(b) LIMITATIONS.—(1) Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 may be obligated and expended for product development, and for research, development, testing, and evaluation, of medical countermeasures against biowarfare threat agents only in accordance with this section.

(2) Of the funds made available pursuant to subsection (a), not more than $10,000,000 may be obligated or expended for research, development, test, or evaluation of medical countermeasures against far-term validated biowarfare threat agents.

(3) Of the funds made available pursuant to subsection (a) other than funds made available pursuant to paragraph (2) for the purpose set out in that paragraph—

(A) not more than 80 percent may be obligated and expended for product development, or for research, development, test, or evaluation, of medical countermeasures against near-term validated biowarfare threat agents; and

(B) not more than 20 percent may be obligated or expended for product development, or for research, development, test, or

evaluation, of medical countermeasures against mid-term validated biowarfare threat agents.

(c) DEFINITIONS.—In this section:

(1) The term "validated biowarfare threat agent" means a biological agent that—

(A) is named in the biological warfare threat list published by the Defense Intelligence Agency; and

(B) is identified as a biowarfare threat by the Deputy Chief of Staff of the Army for Intelligence in accordance with Army regulations applicable to intelligence support for the medical component of the Biological Defense Research Program.

(2) The term "near-term validated biowarfare threat agent" means a validated biowarfare threat agent that has been, or is being, developed or produced for weaponization within 5 years, as assessed and determined by the Defense Intelligence Agency.

(3) The term "mid-term validated biowarfare threat agent" means a validated biowarfare threat agent that is an emerging biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 5 years and less than 10 years, as assessed and determined by the Defense Intelligence Agency.

(4) The term "far-term validated biowarfare threat agent" means a validated biowarfare threat agent that is a future biowarfare threat, is the object of research by a foreign threat country, and could be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined by the Defense Intelligence Agency.

(5) The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

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TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

* * *

(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,263,400,000.

* * *

(17) For Humanitarian Assistance, $25,000,000.

* * * * * * *

SEC. 304. HUMANITARIAN ASSISTANCE.

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(17) shall be available for the purposes of section 2551 of title 10, United States Code, as added by subsection (c), in-

cluding the transportation of humanitarian relief for the people of Afghanistan and Cambodia.

(2) Of the funds authorized to be appropriated for fiscal year 1993 pursuant to section 301(17) for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer, pursuant to section 2551(b) of such title, not more than $3,000,000 of the funds referred to in subsection (a)(1).

(c)[7] CODIFICATION OF AUTHORITY AND ADMINISTRATIVE PROVISIONS.—(1) Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section: * * *

(d)[8] LAWS COVERED BY INITIAL REPORTS.—For purposes of subsection (e) of section 2551 of title 10, United States Code, as added by subsection (c), section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333), and the humanitarian relief laws referred to in subsection (f)(4) of section 304 of that Act (as in effect on the day before the date of the enactment of this Act) shall be considered as provisions of law that authorized appropriations for humanitarian assistance to be available for the purposes of section 2551 of title 10, United States Code.

(e) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—Section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333) is amended by striking out subsection (f).

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Subtitle C—Environmental Provisions

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SEC. 324. OVERSEAS ENVIRONMENTAL RESTORATION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that in carrying out environmental restoration activities at military installations outside the United States, the President should seek to obtain an equitable division of the costs of environmental restoration with the nation in which the installation is located.

(b) REPORT.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928) information, in classified and unclassified form, describing the efforts undertaken and the progress made by the President in carrying out subsection (a) during the period covered by the report.

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[7] This subsection added sec. 2551 to 10 U.S.C., relating to humanitarian assistance.
[8] 10 U.S.C. 2551 note.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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Subtitle C—Other Matters

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SEC. 842.[9] PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola.

SEC. 843.[10] AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATION PROGRAMS. * * *

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Roles and Missions

SEC. 901.[11] REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPORT.—(1) The Secretary of Defense shall transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that is submitted to the Secretary by the Chairman of the Joint Chiefs of Staff under section 153(b) of title 10, United States Code, after January 1, 1992.

(2) The Secretary shall transmit the report, together with his views on the report, within 30 days after receiving the report.

(b) ADDITIONAL MATTERS.—In addition to the matters required under such section 153(b), the Chairman shall include in the report referred to in subsection (a) the Chairman's comments and recommendations regarding the following matters:

(1) Reassessing the roles and missions assigned to each of the Armed Forces (under the Key West agreement of 1947 and subsequent actions by the various Secretaries of Defense and the Congress) in light of the new national security environment resulting from the end of the Cold War.

(2) The extent to which the efficiency of the Armed Forces in carrying out their roles and missions can be enhanced by—

(A) the elimination or reduction of duplication in the capabilities of the military departments and Defense Agen-

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[9] 10 U.S.C. 2304 note. The President made such a determination on July 19, 1993 (Presidential Determination No. 93–32; 58 F.R. 40309; July 28, 1993).

[10] Subsec. (a) of this section amended sec. 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)). See *Legislation on Foreign Relations Through 1997*, vol. I–A. Subsec. (b) amended 10 U.S.C. 2350a and 2350d. See beginning at page 407. Subsec. (c), repealed by sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902), formerly read as follows:

"(c) TERMINATION.—On the date which is two years after the date of the enactment of this Act, subsections (a) and (b) shall cease to be in effect, and section 27(c) of the Arms Export Control Act and section 2350a of title 10, United States Code, shall read as if such subsections had not been enacted.".

[11] 10 U.S.C. 153 note.

cies without an undue diminution in their effectiveness; and

(B) the consolidation or streamlining of organizations and activities within the military departments and Defense Agencies.

(3) Changes in the operational tempo of forces stationed in the continental United States and changes in deployment patterns and operational tempo of forces deployed outside the United States.

(4) Changes in the readiness status of units based upon time-phased force deployment plans.

(5) Transfers of functions from the active components of the Armed Forces to the reserve components of the Armed Forces.

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TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

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SEC. 1003. TREATMENT OF CERTAIN "M" ACCOUNT OBLIGATIONS.

(a) LIMITATION.—The Secretary of Defense may not reobligate any sum in a merged (or so-called "M") account of the Department of Defense until the Secretary has identified an equal sum under section 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) that can be canceled.

(b) REQUIREMENT FOR RECIPROCAL CANCELLATION.—Whenever the Secretary of Defense reobligates funds from a merged (or so-called "M") account of the Department of Defense, the Secretary shall at the same time cancel with the Treasury of the United States a sum in the same amount as the reobligation from a merged account of the Department of Defense.

(c) MONTHLY REPORTS.—The Secretary of Defense shall submit to the congressional defense committees a monthly report, for each month beginning after the date of the enactment of this Act through September 1993, on the amount of funds reobligated during the month from merged accounts of the Department of Defense and the amount of funds canceled during the month from such accounts. Each report shall be submitted not later than the 21st day of the month after the month covered by the report.

(d) NOTICE-AND-WAIT.—(1) Whenever the Secretary of Defense proposes to reobligate from a merged (or so-called "M") account of the Department of Defense any sum in an amount greater than $10,000,000, the reobligation may not be made until—

(A) the Secretary notifies Congress of the amount to be reobligated, the source of the funds to be reobligated, and the purpose the funds will be reobligated for; and

(B) a period of 30 days passes after the notice is received.

(2) The limitation in paragraph (1) applies to reobligations for a single purpose in a sum greater than the amount specified in that paragraph. Such a reobligation may not be divided into several smaller sums to avoid such limitation.

(e) DURATION OF LIMITATIONS.—Subsections (a) and (b) shall cease to apply when all audits and cancellations of balances required by section 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) have been completed.

SEC. 1004.[12] ADDITIONAL TRANSITION AUTHORITY REGARDING CLOSING APPROPRIATION ACCOUNTS. * * *

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Subtitle E—Counter-Drug Activities

SEC. 1041.[13] ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES. * * *

SEC. 1042.[14] MAINTENANCE AND OPERATION OF EQUIPMENT. * * *

SEC. 1043. COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN.

(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall—

(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

(2) determine the optimal and most cost-effective combination of use of counter-drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

(c) SYSTEMS PLAN.—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the

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[12] Sec. 1004 amended sec. 1405(b) of the National Defense Authorization Act for Fiscal Year 1991 (31 U.S.C. 1551 note).

[13] Sec. 1041, in part, amended sec. 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note).

[14] Sec. 1042 amended 10 U.S.C 374.

development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

(d) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

(e) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for—

(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

(f) DEFINITION.—For purposes of this section, the term "counter-drug detection and monitoring systems" means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission—

(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.

SEC. 1044.[15] EXTENSION OF AUTHORITY TO TRANSFER EXCESS PERSONAL PROPERTY. * * *

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[15] Sec. 1044 amended sec. 1208(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note).

TITLE XII—SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS

Subtitle A—Operation Desert Storm

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SEC. 1202. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1992 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b)(1) of such section, the sum of $429,000,000 for military personnel as follows:

(1) ARMY.—For the Army, $399,000,000.

(2) NAVY.—For the Navy, $30,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1992 AUTHORIZATIONS.—The total amount of the transfer authority provided for the Secretary of Defense for fiscal year 1992 in Public Law 102–190 or any other Act is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by section 1201.

SEC. 1203. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1993 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b) of such section, the sum of $87,700,000 for military personnel as follows:

(1) ARMY.—For the Army, $29,300,000.

(2) NAVY.—For the Navy, $35,300,000.

(3) MARINE CORPS.—For the Marine Corps, $3,100,000.

(4) AIR FORCE.—For the Air Force, $20,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1993 AUTHORIZATIONS.—The amount of the transfer authority provided in section 1001 is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1993 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by section 1201.

SEC. 1204. RELATIONSHIP TO OTHER AUTHORIZATIONS.

The authorizations of appropriations in sections 1202 and 1203 are in addition to the amounts otherwise authorized to be appropriated to the Department of Defense for fiscal year 1992 and for fiscal year 1993 by any other provision of this Act or by any other Act enacted before the date of the enactment of this Act.

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TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Burdensharing

SEC. 1301. OVERSEAS BASING ACTIVITIES.

(a) FUNDING REDUCTIONS.—(1)(A) The total amount appropriated to the Department of Defense for operation and maintenance and for military construction (including NATO Infrastructure) that is obligated to conduct overseas basing activities during fiscal year 1993 may not exceed the amount equal to the baseline for fiscal year 1993 reduced by $500,000,000.

(B) For purposes of subparagraph (A), the baseline for fiscal year 1993 is the sum of the amounts of the overseas funding estimates specified for such year for Operation and Maintenance; Family Housing, Operations; Family Housing, Construction; and Military Construction (including NATO Infrastructure) set forth on page 8 of the report of the Department of Defense dated January 1992, and entitled "Amended FY 1992/FY 1993 Biennial Budget Estimates for Defense Overseas Funding and Dependent Overseas Funding".

(2) It is the sense of Congress that the amounts obligated to conduct overseas basing activities should decline significantly in fiscal years 1994, 1995, and 1996 as—

(A) the number of United States military personnel stationed overseas is reduced in conformance with the provisions of section 1302 and the amendment made by section 1303; and

(B) the countries to which subsection (e)(1) and (e)(2) apply assume an increased share of the costs of United States military installations in those countries.

(b) DEFINITION.—In this section, the term "overseas basing activities" means the activities of the Department of Defense for which funds are provided through appropriations for operation and maintenance, including appropriations for family housing operations, and for military construction (including family housing construction and NATO Infrastructure) for the payment of costs for Department of Defense overseas military units and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(c) OFFSETS.—Reductions for purposes of subsection (a) in obligations of appropriated funds for overseas basing activities may be offset by either or a combination of the following:

(1) Increase in the level of host-nation support due to agreements reached under subsection (e) or otherwise.

(2) Accelerated withdrawal of United States forces or equipment under the provisions of section 1302 and the amendment made by section 1303.

(d) ALLOCATIONS OF SAVINGS.—The savings realized as a result of the reductions for purposes of subsection (a) will be allocated for operation and maintenance and military construction activities of the Department of Defense at military installations and facilities located inside the United States.

(e)[16] DEFENSE BURDENSHARING AGREEMENTS FOR INCREASED HOST NATION SUPPORT.—(1) In order to achieve additional savings in fiscal year 1994 and in future fiscal years, the President should enter into a revised host-nation agreement with each foreign country described in paragraph (3)(A).

(2) For purposes of paragraph (1), a revised host-nation agreement is an agreement under which such foreign country, on or before September 30, 1994—

(A) assumes an increased share of the costs of United States military installations in that country, including the costs of—

(i) labor, utilities, and services;

(ii) military construction projects and real property maintenance;

(iii) leasing requirements associated with United States military presence; and

(iv) actions necessary to meet local environmental standards;

(B) relieves the Armed Forces of the United States of all tax liability that, with respect to forces located in such country, is incurred by the Armed Forces under the laws of that country and the laws of the community where those forces are located; and

(C) ensures that goods and services furnished in that country to the Armed Forces of the United States are provided at minimum cost and without imposition of user fees.

(3)(A) Except as provided in subparagraph (B), paragraph (1) applies with respect to—

(i) each country of the North Atlantic Treaty Organization (other than the United States); and

(ii) each other foreign country with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in that country or the placement of combat equipment of the United States in that country.

(B) Paragraph (1) does not apply with respect to—

(i) a foreign country that receives assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2673) (relating to the foreign military financing program) or under the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); or

(ii) a foreign country that has agreed to assume, not later than September 30, 1996, at least 75 percent of the non-personnel costs of United States military installations in that country.

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[16] Sec. 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) provided the following:

"(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that by September 30, 1996, those nations have assumed 37.5 percent of such costs.".

SEC. 1302.[17] OVERSEAS MILITARY END STRENGTH. * * * [Repealed—1994]

SEC. 1303.[18] REDUCTION IN THE AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE. * * * [Repealed—1994]

SEC. 1304.[19] REPORTS ON OVERSEAS BASING.

(a) ANNUAL REPORT.—The Secretary of Defense shall, not later than March 31 of each year through 1997, submit to the Committees on Armed Services[20] of the Senate and House of Representatives, either separately or as part of another relevant report, a report that specifies—

(1) the stationing and basing plan by installation[21] for United States military forces outside the United States;

(2) the status of closures of United States military installations located outside the United States;

(3)[22] both—

(A) the status of negotiations, if any, between the United States and the host government as to (i) United States claims for compensation for the fair market value of the improvements made by the United States at each installation referred to in paragraph (2), and (ii) any claims of the host government for damages or restoration of the installation; and

(B) the representative of the United States in any such negotiations;

(4) the potential savings to the United States resulting from such closures;

(5)[23] the cost to the United States of any improvements made at each installation referred to in paragraph (2) and the

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[17] Formerly at 10 U.S.C. 113 note. Sec. 1312(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2894) repealed sec. 1302. That section also enacted a new section at 10 U.S.C. 123b, relating to "Forces Stationed Abroad; Limitation on Number", effective fiscal year 1996. See page 370.

Sec. 1302 previously read as follows:

"SEC. 1302. OVERSEAS MILITARY END STRENGTH.

"(a) REDUCTION IN UNITED STATES FORCE LEVELS ABROAD.—On and after September 30, 1996, no appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in nations outside the United States at any level in excess of 60 percent of the end strength level of such members on September 30, 1992.

"(b) EXCEPTIONS.—(1) Subsection (a) shall not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

"(2) The President may waive the operation of subsection (a) if the President declares an emergency and immediately notifies Congress.".

[18] Sec. 1303(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) repealed sec. 1303, which had amended sec. 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), effective October 1, 1995, to set U.S. military personnel levels in Europe at 100,000. Sec. 1303 of Public Law 103–337 further amended sec. 1002(c)(1) the 1985 Act.

[19] 10 U.S.C. 113 note.

[20] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[21] Sec. 2924(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) inserted "by installation".

[22] Sec. 2924(a)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) struck out par. (3), which read "(3) the schedule for the negotiation of such closures;", and inserted the par. (3) as shown.

[23] Sec. 2924(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) struck out par. (5), which read: "(5) the potential amount of receipts from residual value negotiations; and", and inserted new pars. (5) and (6).

fair market value of such improvements, expressed in constant dollars based on the date of completion of the improvements;

(6)[23] in each case in which negotiations between the United States and a host government have resulted in an agreement for the payment to the United States by the host government of the value of improvements to an installation made by the United States, the amount of such payment, the form of such payment, and the expected date of such payment; and

(7)[24] efforts and progress toward achieving host nation offsets under section 1301(e) and reduced end strength levels under section 1302.

(b) REPORT ON BUDGET IMPLICATIONS OF OVERSEAS BASING AGREEMENTS.—Whenever the Secretary of Defense enters into a basing agreement between the United States and a foreign country with respect to United States military forces outside the United States, the Secretary of Defense shall, in advance of the signing of the agreement, submit to the congressional defense committees a report on the Federal budget implications of the agreement.

SEC. 1305.[25] BURDENSHARING CONTRIBUTIONS BY KUWAIT. * * *

Subtitle B—Cooperative Agreements and Other Matters Concerning Allies

SEC. 1311.[26] COOPERATIVE MILITARY AIRLIFT AGREEMENTS. * * *

SEC. 1312.[27] COOPERATIVE AGREEMENTS WITH ALLIES. * * *

SEC. 1313.[28] AUTHORITY FOR GOVERNMENT OF OMAN TO RECEIVE EXCESS DEFENSE ARTICLES. * * *

SEC. 1314. REPORT ON POSSIBLE REVISIONS TO THE NORTH ATLANTIC TREATY.

(a) FINDINGS.—The Congress finds that—

(1) when the North Atlantic Treaty was signed in 1949, the clear military threat to the security of Western Europe was the Soviet Union and its allies in Eastern Europe;

(2) since 1949 it has been clearly understood by the people of the Western World that the primary mission of NATO was to deter an attack from the Soviet Bloc;

(3) the dramatic changes in Europe since the fall of the Berlin Wall in 1989, and the subsequent dissolution of the Warsaw Pact and the Soviet Union have fundamentally changed the security situation in Europe;

(4) one of the consequences of the breakdown of 40 years of Communist rule in Eastern Europe and the former Soviet Union has been ethnic conflict throughout the region, particularly in the Balkans and the Republics of the former Soviet Union;

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[24] Sec. 2924(a)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) redesignated par. (6) as par. (7).

[25] Sec. 1305 amended sec. 1045 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1465); see 10 USC 2350j.

[26] Sec. 1311 amended 10 U.S.C. 2350c.

[27] Sec. 1312(a) amended 10 U.S.C. 2341, relating to the authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States. Sec. 1312 (b) amend 10 U.S.C. 2347, relating to limiting liabilities that may be obligated or accrued by the United States during hostilities involving U.S. armed forces overseas.

[28] Sec. 1313 amended sec. 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(a)); see *Legislation on Foreign Relations Through 1997*, vol. I–A.

(5) those fundamental changes in the security threats facing NATO member nations have caused confusion concerning the mission of NATO in the post-cold war world and the role of NATO military forces outside of the NATO Theater, particularly in the former Soviet Union;

(6) if NATO is to continue to be relevant to the security interests of Western Europe and North America through the 1990's and beyond, the alliance's mission must be recrafted in order to enable it to address common transatlantic security concerns, including those beyond NATO's geographic boundaries; and

(7) a fundamental review of the North Atlantic Treaty is necessary, in light of the new security situation in Europe.

(b) REPORT.—Not later than April 1, 1993, the President shall submit to Congress a report on the North Atlantic Treaty of 1949. The report shall include—

(1) a detailed analysis of the forseeable threats to the security of NATO member nations;

(2) a determination whether the North Atlantic Treaty of 1949 should be revised to meet the future challenges to peace and security; and

(3) the extent to which the NATO charter permits the use of NATO forces for peacekeeping purposes, given the steadily increased use of military forces for such purposes, and the range of missions that should be considered for such peacekeeping to protect the interests of member nations

Subtitle C—Matters Relating to the Former Soviet Union and Eastern Europe

SEC. 1321.[29] NUCLEAR WEAPONS REDUCTION.

(a) FINDINGS.—The Congress makes the following findings:

(1) On February 1, 1992, the President of the United States and the President of the Russian Federation agreed in a Joint Statement that "Russia and the United States do not regard each other as potential adversaries" and stated further that, "We will work to remove any remnants of cold war hostility, including taking steps to reduce our strategic arsenals".

(2) In the Treaty on the Non-Proliferation of Nuclear Weapons, in exchange for the non-nuclear-weapon states agreeing not to seek a nuclear weapons capability nor to assist other non-nuclear-weapon states in doing so, the United States agreed to seek the complete elimination of all nuclear weapons worldwide, as declared in the preamble to the Treaty, which states that it is a goal of the parties to the Treaty to "facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery" as well as in Article VI of the Treaty, which states that "each of the parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relat-

[29] 22 U.S.C. 5901 note.

ing to the cessation of the nuclear arms race at an early date and to nuclear disarmament''.

(3) Carrying out a policy of seeking further significant and continuous reductions in the nuclear arsenals of all countries, besides reducing the likelihood of the proliferation of nuclear weapons and increasing the likelihood of a successful extension and possible strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons in 1995, when the Treaty is scheduled for review and possible extension, has additional benefits to the national security of the United States, including—

(A) a reduced risk of accidental enablement and launch of a nuclear weapon, and

(B) a defense cost savings which could be reallocated for deficit reduction or other important national needs.

(4) The Strategic Arms Reduction Talks (START) Treaty and the agreement by the President of the United States and the President of the Russian Federation on June 17, 1992, to reduce the strategic nuclear arsenals of each country to a level between 3,000 and 3,500 weapons are commendable intermediate stages in the process of achieving the policy goals described in paragraphs (1) and (2).

(5) The current international era of cooperation provides greater opportunities for achieving worldwide reduction and control of nuclear weapons and material than any time since the emergence of nuclear weapons 50 years ago.

(6) It is in the security interests of both the United States and the world community for the President and the Congress to begin the process of reducing the number of nuclear weapons in every country through multilateral agreements and other appropriate means.

(7) In a 1991 study, a committee of the National Academy of Sciences concluded that: ''The appropriate new levels of nuclear weapons cannot be specified at this time, but it seems reasonable to the committee that U.S. strategic forces could in time be reduced to 1,000–2,000 nuclear warheads, provided that such a multilateral agreement included appropriate levels and verification measures for the other nations that possess nuclear weapons. This step would require successful implementation of our proposed post-START U.S.-Soviet reductions, related confidence-building measures in all the countries involved, and multilateral security cooperation in areas such as conventional force deployments and planning.''.

(b) UNITED STATES POLICY.—It shall be the goal of the United States—

(1) to encourage and facilitate the denuclearization of Ukraine, Byelarus, and Kazakhstan, as agreed upon in the Lisbon ministerial meeting of May 23, 1992;

(2) to rapidly complete and submit for ratification by the United States the treaty incorporating the agreement of June 17, 1992, between the United States and the Russian Federation to reduce the number of strategic nuclear weapons in each country's arsenal to a level between 3,000 and 3,500;

(3) to facilitate the ability of the Russian Federation, Ukraine, Byelarus, and Kazakhstan to implement agreed mu-

tual reductions under the START Treaty, and under the Joint Understanding of June 16–17, 1992 between the United States and the Russian Federation, on an accelerated timetable, so that all such reductions can be completed by the year 2000;

(4) to build on the agreement reached in the Joint Understanding of June 16–17, 1992, by entering into multilateral negotiations with the Russian Federation, the United Kingdom, France, and the People's Republic of China, and, at an appropriate point in that process, enter into negotiations with other nuclear armed states in order to reach subsequent stage-by-stage agreements to achieve further reductions in the number of nuclear weapons in all countries;

(5) to continue and extend cooperative discussions with the appropriate authorities of the former Soviet military on means to maintain and improve secure command and control over nuclear forces;

(6) in consultation with other member countries of the North Atlantic Treaty Organization and other allies, to initiate discussions to bring tactical nuclear weapons into the arms control process; and

(7) to ensure that the United States assistance to securely transport and store, and ultimately dismantle, former Soviet nuclear weapons and missiles for such weapons is being properly and effectively utilized.

(c) ANNUAL REPORT.—By February 1 of each year, the President shall submit to the Congress a report on—

(1) the actions that the United States has taken, and the actions the United States plans to take during the next 12 months, to achieve each of the goals set forth in paragraphs (1) through (6) of subsection (b); and

(2) the actions that have been taken by the Russian Federation, by other former Soviet republics, and by other countries to achieve those goals.

Each such report shall be submitted in unclassified form, with a classified appendix if necessary.

SEC. 1322.[30] VOLUNTEERS INVESTING IN PEACE AND SECURITY (VIPS) PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—(1) Part II of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter: * * *

(b)[31] REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense shall reimburse other departments and agencies for all costs, direct or indirect, of participation in the program established under chapter 89 of title 10, United States Code, as added by subsection (a).

(c)[31] STUDY TO DETERMINE PROGRAM NEED AND AVAILABILITY OF VOLUNTEERS.—The Secretary of Defense shall conduct a study to assess the need for the program under chapter 89 of title 10, United States Code, as added by subsection (a), and the availability of volunteers to participate in that program. The Secretary shall—

[30] This subsection added new secs. 1801–1805 to 10 U.S.C. The sections were subsequently repealed by sec. 1061(a)(1) of Public Law 104–106 (110 Stat. 442).

[31] 10 U.S.C. 1801 note.

(1) in consultation with the Secretary of State, conduct a survey, of a scope considered necessary by the Secretary, to determine what technical skills may be required within the independent states of the former Soviet Union and the degree of need for these skills;

(2) determine the potential availability of former service members who are qualified in the required technical skills in a manner and of a duration considered necessary by the Secretary; and

(3) maintain a registry of the skills and former service members who volunteer to participate during the study required in paragraphs (1) and (2).

(d)[31] EFFECTIVE DATE.—Chapter 89 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle D—Matters Relating to the Middle East and Persian Gulf Region

SEC. 1331. REPORT ON THE UNITED STATES STRATEGIC POSTURE IN THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 1993, the Secretary of Defense, together with the Secretary of State and the Director for Central Intelligence, shall submit to Congress a report on the United States strategic posture in the Middle East and Persian Gulf region.

(b) CONTENT OF REPORT.—The report shall include an assessment of the following matters:

(1) The adequacy of United States power projection forces, strategic lift, forward deployed forces, prepositioned materiel, and force sustainability capabilities for protecting United States strategic interests in the Middle East and the Persian Gulf region in order to ensure the security needs of Israel, Egypt, and Persian Gulf states friendly to the United States.

(2) United States policy, plans, and programs for ensuring Israel's military and technological superiority over potential threats.

(3) United States capabilities for assisting Israel in a military emergency and the adequacy of United States military assistance and technology transfer for ensuring that Israel has the capability to deter war and to defend its territory with minimal risk and loss of life.

(4) The state of strategic cooperation between the United States and Israel, including—

(A) a thorough assessment of options for prepositioning in Israel appropriate defense articles for use by the United States in the region; and

(B) an assessment of United States policies, plans, and programs for ensuring that maximum advantage is taken of Israel's strategic location and Israel's ability to provide unique options regarding military technologies and production.

(5) The adequacy of United States power projection forces, military assistance, arms transfers, and cooperation arrangements for addressing Egypt's security arrangements to deter

outside threats and to participate in regional security efforts with the United States and other nations.

(6) The adequacy of United States power projection forces, military assistance, and arms transfers for addressing the security requirements of the Gulf Cooperation Council States.

(7) The adequacy of the capabilities of the United States and countries friendly to the United States for deterring and defending against long-range missile threats and the use of weapons of mass destruction in the Middle East and the Persian Gulf region.

(c) INTELLIGENCE ASSESSMENT.—As part of the report submitted pursuant to subsection (a), the Secretary of Defense shall provide a military threat assessment for the Middle East and Persian Gulf region. The intelligence assessment shall include a description of—

(1) the overall military threat to United States strategic interests in the Persian Gulf region;

(2) the overall military threat to Israel and the military threats to Israel from individual countries, including an assessment of the Arab-Israeli military balance and a discussion of the changes taking place in that balance;

(3) the military threats to Egypt;

(4) the military threats to the Gulf Cooperation Council States; and

(5) the threats to United States interests and to regional States friendly to the United States that result from the proliferation of long-range missiles and weapons of mass destruction.

(d) FORM OF REPORT.—The report may be submitted in classified and unclassified forms.

SEC. 1332.[32] PROHIBITION ON CONTRACTING WITH ENTITIES THAT COMPLY WITH THE SECONDARY ARAB BOYCOTT OF ISRAEL. * * *

Subtitle E—International Peacekeeping Activities

SEC. 1341. UNITED NATIONS PEACEKEEPING AND ENFORCEMENT REPORT.

(a) REPORT REQUESTED.—Not later than the date on which the President submits to Congress the budget for fiscal year 1994 under section 1105 of title 31, United States Code, the President shall transmit to Congress a report on the proposals of the Secretary General of the United Nations contained in his report to the Security Council entitled "Preventive Diplomacy, Peacemaking and Peacekeeping", dated June 19, 1992.

(b) CONTENT OF PRESIDENT'S REPORT.—The President's report shall contain a comprehensive analysis and discussion of the proposals of the Secretary General, including, in particular, the following:

(1) The proposal that contributions for peacekeeping and related enforcement activities be funded out of the National Defense function of the budget rather than the "Contributions to International Peacekeeping Activities" account of the Department of State.

[32] Sec. 1332(a) added a new 10 U.S.C. 2410i, relating to the secondary boycott of Israel.

(2) The assignment of responsibilities within the Executive branch if such contributions are funded, in whole or in part, out of the National Defense function.

(3) The proposal that the United States and other member states of the United Nations negotiate special agreements under Article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the Security Council of the United Nations for the purposes stated in Article 42 of that Charter, not only on an ad hoc basis but on a permanent on-call basis for rapid deployment under Security Council authorization.

(4) The proposal that member states of the United Nations commit to keep equipment specified by the Secretary General available for immediate sale, loan, or donation to the United Nations when required.

(5) The proposal that member states of the United Nations make airlift and sealift capacity available to the United Nations free of cost or at lower than commercial rates.

(6) Such other information as may be necessary to inform Congress on matters relating to the Secretary General's proposals.

SEC. 1342.[33] SUPPORT FOR PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) International peacekeeping activities contribute to the national interests of the United States in maintaining global stability and order.

(2) International peacekeeping activities take many forms and include observer missions, ceasefire monitoring, human rights monitoring, refugee and humanitarian assistance, monitoring and conducting elections, monitoring of police in the demobilization of former combatants, and reforming judicial and other civil and administrative systems of government.

(3) International peacekeeping activities traditionally involve the presence of military troops, police forces, and, in recent years, civilian experts in transportation, logistics, medicine, electoral systems, human rights, land tenure, other economic and social issues, and other areas of expertise.

(4) International peacekeeping activities serve both the foreign policy interests and defense policy interests of the United States.

(5) The normal budget process of authorizing and appropriating funds a year in advance and reprogramming such funds is insufficient to satisfy the need for funds for peacekeeping efforts arising from an unanticipated crisis.

(6) Greater flexibility is needed to ensure the timely availability of funding to provide for peacekeeping activities.

(b) AUTHORIZED SUPPORT FOR FISCAL YEAR 1993.—(1) Subject to paragraph (2), the Secretary may provide assistance for international peacekeeping activities during fiscal year 1993 in an amount not to exceed $300,000,000 in accordance with section 403 of title 10, United States Code, as added by subsection (c). Notwithstanding subsection (b) of that section, the assistance so provided

[33] 10 U.S.C. 403 note.

may be derived from funds appropriated to the Department of Defense for fiscal year 1993 for operation and maintenance or from balances in working capital accounts.

(2) No amount may be obligated pursuant to paragraph (1) unless the expenditure of such amount has been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c)[34] AUTHORIZATION.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section: * * *

Subtitle F—Overseas Operation and Maintenance Activities

SEC. 1351.[35] PROHIBITION ON PAYMENT OF SEVERANCE PAY TO CERTAIN FOREIGN NATIONALS IN THE PHILIPPINES.

(a) PROHIBITION.—Funds available to the Department of Defense may not be used to pay severance pay to a foreign national employed by the Department of Defense in the Republic of the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Republic of the Philippines.

(b) PROHIBITION ON ALLOWANCE OF CERTAIN SEVERANCE PAY AS CONTRACT COSTS.—Funds available to the Department of Defense may not be used to pay the costs of severance pay paid by a contractor to a foreign national employed by the contractor under a defense service contract in the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Philippines.

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Subtitle G—Other Matters

SEC. 1363.[36] REPORT ON PROLIFERATION OF MILITARY-BASED SATELLITES.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the foreign development of, acquisition of, or access to

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[34] Sec. 1342(c)(1) added a new 10 U.S.C. 403. Sec. 403 was subsequently repealed by sec. 1061(g)(1) of Public Law 104–106 (110 Stat. 443).

[35] 10 U.S.C. 1592 note.

[36] Sec. 220(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2697) provided the following:

"(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).".

Sec. 1506 of the same Act (108 Stat. 2919), furthermore, provided the following:

"SEC. 1506. RESTRICTION RELATING TO SUBMISSION OF REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

"None of the funds available to the Department of Defense may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).".

Sec. 211 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1584) provided the following:

"SEC. 211. KINETIC ENERGY ANTISATELLITE PROGRAM.

Continued

satellites with capabilities for military applications and the implications of such development, acquisition, or access for the United States. The report shall include the following:

(1) A description of the current military satellite capability of Third World countries and other countries, including the projected threat posed by such capabilities to the United States in the future.

(2) A description of the current and planned efforts by the United States to develop an antisatellite capability to counter the global proliferation of satellites with capability for military applications.

(3) A review of other measures that the United States might use to counter the proliferation of such satellites.

(4) An assessment of the likelihood of any Third World country capable of ownership or control of satellites with capabilities for military applications of being able to obtain or develop an effective antisatellite capability.

(5) An assessment of the military requirement of the United States for antisatellite capabilities and a description of the existing management structure in the Government for the coordination of United States antisatellite programs.

(b) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act. The report shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1364.[37] REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDINGS.—The Congress finds that—

(1) an estimated 10–20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict; and

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"(a) CONVERSION OF PROGRAM.—The Secretary of Defense shall convert the Kinetic Energy Antisatellite (KE–ASAT) Program to a tactical antisatellite technologies program.

"(b) LEVEL FUNDING.—Of the amounts authorized to be appropriated in this title, $10,000,000 shall be available for fiscal year 1994 for engineering development under the program.

"(c) DEVELOPMENT OF MOST CRITICAL TECHNOLOGIES.—The amount referred to in subsection (b) shall be available for engineering development of the most critical antisatellite technologies.

"(d) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated to the Department of Defense for fiscal year 1994 may be obligated for the Kinetic Energy Antisatellite (KE–ASAT) program until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560) that contains, in addition to the matter required by such section, the Secretary's certification that there is a requirement for an antisatellite program.".

[37] Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East arms control, and related congressional reporting requirements, including the following:

"**Sec. 2.** *Missile Proliferation Sanctions.* * * *

"(c) *Reporting Requirements.* The authority and duties vested in me to make certain reports to the Congress as provided in section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 are delegated to the Secretary of State.

"(d) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise prohibition authority delegated hereby.".

This Executive order superceded a memorandum of the President of June 25, 1991, delegating authority regarding missile technology proliferation (56 F.R. 31041; July 8, 1991).

(2) refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The President shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) The report shall include the following:

(A) An assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report.

(B) An analysis of the specific types of mines in the individual countries assessed and the availability of technology and assets within the international community for their removal.

(C) An assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts.

(D) An evaluation of the availability of technologies and assets within the United States Government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report.

(E) An evaluation of the desirability, feasibility and potential cost of United States assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) The report shall be submitted to the Congress not later than 180 days after the date of the enactment of this Act.

SEC. 1365.[38] LANDMINE EXPORT MORATORIUM.

(a) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not

[38] 22 U.S.C. 2778 note. Effective November 25, 1992, the Department of State suspended "all licenses, approvals, sales or transfers of landmines specifically designed for anti-personnel use, regardless of method of delivery", and furthermore, "all existing authorizations for the sale, export, or transfer of such defense articles are revoked until further notice" pursuant to this section and to secs. 2, 38, and 42 of the AECA [Department of State Public Notice 1727; November 25, 1992; 57 F.R. 55614].

See also sec. 1423 of Public Law 103–160.

a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The President should submit the Convention to the Senate for its advice and consent to ratification, and the President should actively negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. Such an agreement or modification would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(b) STATEMENT OF POLICY.—(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer, or export, and further limiting the use, production, possession, and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer, or export of anti-personnel landmines.

(c) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—During the eight-year period beginning on October 23, 1992—[39]

[39] Sec. 1423(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832) struck out "For a period of one year beginning on the date of the enactment of this Act" and inserted in lieu thereof "During the four-year period beginning on October 23, 1992".

Sec. 558 of Public Law 104–107 (110 Stat. 743) struck out "During the four-year period beginning on October 23, 1992—" and inserted in lieu thereof "During the five-year period beginning on October 23, 1992—". Sec. 556 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009), struck out "During the five-year period beginning on October 23, 1992" and inserted in lieu thereof "During the eight-year period beginning on October 23, 1992". That section also provided the following:

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(d)[40] DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

SEC. 1401.[41] SHORT TITLE.

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

Subtitle B—Findings and Program Authority

SEC. 1411.[42] DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of the independent states of the former Soviet Union, including the safe and secure storage of fissile materials, dismantlement of missiles and launchers, and the elimination of chemical and biological weapons capabilities;

(B) the prevention of proliferation of weapons of mass destruction and their components and destabilizing con-

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"LANDMINES

"SEC. 556. Notwithstanding any other provision of law, demining equipment available to the Agency for International Development and the Department of State and used in support of the clearing of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe: *Provided*, * * *".

[40] Sec. 1182(c)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772) struck out "(e) DEFINITION.—" and inserted in lieu thereof "(d) DEFINITION.—".

[41] 22 U.S.C. 5901 note.

[42] 22 U.S.C. 5901.

ventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the demilitarization of the massive defense-related industry and equipment of the independent states of the former Soviet Union and conversion of such industry and equipment to civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

SEC. 1412.[43] AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized,[44] in accordance with this title, to establish and conduct programs described in subsection (b) to assist the demilitarization of the independent states of the former Soviet Union.

(b) TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(2) establishing verifiable safeguards against the proliferation of such weapons and their components;

(3) preventing diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries;

(4) facilitating the demilitarization of the defense industries of the former Soviet Union and the conversion of military technologies and capabilities into civilian activities;

(5) establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists, engineers, and other experts previously involved with nuclear, chemical, and other weapons in productive, nonmilitary undertakings; and

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[43] 22 U.S.C. 5902. See also sec. 1203 of Public Law 103–160.

[44] In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of this Act, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985." (58 F.R. 3193; January 8, 1993).

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) UNITED STATES PARTICIPATION.—The programs described in subsection (b) should, to the extent feasible, draw upon United States technology and expertise, especially from the United States private sector.

(d) RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress,[44] on an annual basis, that the proposed recipient country is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

(4) facilitating United States verification of any weapons destruction carried out under this title or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

Subtitle C—Administrative and Funding Authorities

SEC. 1421.[45] ADMINISTRATION OF DEMILITARIZATION PROGRAMS.

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 1412, funds transferred under sections 108 and 109 of Public Law 102–229 (105 Stat. 1708)[46] are authorized to be made available to carry out this title. Of the amount available to carry out this title—

(A) not more than $40,000,000 may be made available for programs referred to in section 1412(b)(4) relating to demilitarization of defense industries;

(B) not more than $15,000,000 may be made available for programs referred to in section 1412(b)(6) relating to military-to-military contacts;

(C) not more than $25,000,000 may be made available for joint research development programs pursuant to section 1441;

(D) not more than $10,000,000 may be made available for the study, assessment, and identification of nuclear waste disposal activities by the former Soviet Union in the Arctic region;

(E) not more than $25,000,000 may be made available for Project PEACE; and

(F) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program

[45] 22 U.S.C. 5911.

[46] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

under chapter 89 of title 10, United States Code, as added by section 1322.

(2) Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 105 Stat. 1695)[46] is amended—

(A) by striking out "fiscal year 1992" and inserting "fiscal years 1992 and 1993"; and

(B) by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

(3) Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229[46] is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102–228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102–228 (105 Stat. 1696)"; and

(B) by striking "of H.R. 3807".

Subtitle D—Reporting Requirements

SEC. 1431.[47] PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.

(a) IN GENERAL.—Not less than 15 days before obligating any funds made available for a program under this title, the President shall transmit to the Congress a report[48] on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under this title for which the President plans to obligate such funds, including the projected involvement of United States Government departments and agencies and the United States private sector.

(b) INDUSTRIAL DEMILITARIZATION.—Any report under subsection (a) that covers proposed industrial demilitarization projects shall

[47] 22 U.S.C. 5921.

[48] In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of this Act, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985." (58 F.R. 3193; January 8, 1993).

contain additional information to assist the Congress in determining the merits of the proposed projects. Such information shall include descriptions of—

(1) the facilities to be demilitarized;

(2) the types of activities conducted at those facilities and of the types of nonmilitary activities planned for those facilities;

(3) the forms of assistance to be provided by the United States Government and by the United States private sector;

(4) the extent to which military production capability will consequently be eliminated at those facilities; and

(5) the mechanisms to be established for monitoring progress on those projects.

SEC. 1432.[49] QUARTERLY REPORTS ON PROGRAMS.

Not later than 30 days after the end of the last fiscal year quarter of fiscal year 1992 and not later than 30 days after the end of each fiscal year quarter of fiscal year 1993, the President shall transmit to the Congress a report[48] on the activities carried out under this title. Each such report shall set forth, for the preceding fiscal year quarter and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies and the United States private sector in such activities.

(4) A description of the activities carried out under this title and the forms of assistance provided under this title, including, with respect to proposed industrial demilitarization projects, additional information on the progress toward demilitarization of facilities and the conversion of the demilitarized facilities to civilian activities.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs authorized under this title.

Subtitle E—Joint Research and Development Programs

SEC. 1441.[50] PROGRAMS WITH STATES OF FORMER SOVIET UNION.

The Congress encourages the Secretary of Defense to participate actively in joint research and development programs with the independent states of the former Soviet Union through the nongovernmental foundation established for this purpose by section 511 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3345; 22 U.S.C. 5861).[51] To that end, the Secretary of Defense may spend those funds authorized in section 1421(a)(1)(C) for support,

[49] 22 U.S.C. 5922.

[50] 22 U.S.C. 5931.

[51] Sec. 1182(c)(4) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772) struck out "the FREEDOM Support Act of 1992" and inserted in lieu thereof "the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3345; 22 U.S.C. 5861)".

technical cooperation, in-kind assistance, and other activities with the following purposes:

(1) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(2) To assist the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(3) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(4) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(5) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent proliferation of weapons technologies and the dissolution of the technological infrastructure of those states.

TITLE XV—NONPROLIFERATION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Weapons of Mass Destruction Control Act of 1992".

SEC. 1502. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the proliferation (A) of nuclear, biological, and chemical weapons (hereinafter in this title referred to as "weapons of mass destruction") and related technology and knowledge and (B) of missile delivery systems remains one of the most serious threats to international peace and the national security of the United States in the post-cold war era;

(2) the proliferation of nuclear weapons, given the extraordinary lethality of those weapons, is of particularly serious concern;

(3) the nonproliferation policy of the United States should continue to seek to limit both the supply of and demand for weapons of mass destruction and to reduce the existing threat from proliferation of such weapons;

(4) substantial funding of nonproliferation activities by the United States is essential to controlling the proliferation of all weapons of mass destruction, especially nuclear weapons and missile delivery systems;

(5) the President's nonproliferation policy statement of June 1992, and his September 10, 1992, initiative to increase fund-

ing for nonproliferation activities in the Department of Energy are praiseworthy;

(6) the Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction;

(7) the President should identify a full range of appropriate, high priority nonproliferation activities that can be undertaken by the United States and should include requests for full funding for those activities in the budget submission for fiscal year 1994;

(8) the Department of Defense and the Department of Energy have unique expertise that can further enhance the effectiveness of international nonproliferation activities;

(9) under the guidance of the President, the Secretary of Defense and the Secretary of Energy should continue to actively assist in United States nonproliferation activities and in formulating and executing United States nonproliferation policy, emphasizing activities such as improved capabilities (A) to detect and monitor proliferation, (B) to respond to terrorism, theft, and accidents involving weapons of mass destruction, and (C) to assist with interdiction and destruction of weapons of mass destruction and related weapons material; and

(10) in a manner consistent with United States nonproliferation policy, the Department of Defense and the Department of Energy should continue to maintain and to improve their capabilities to identify, monitor, and respond to proliferation of weapons of mass destruction and missile delivery systems.

SEC. 1503. REPORT ON DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY NONPROLIFERATION ACTIVITIES.

(a) REPORT REQUIRED.—The Secretary of Defense and the Secretary of Energy shall jointly submit to the committees of Congress named in subsection (d)(1) a report describing the role of the Department of Defense and the Department of Energy with respect to the nonproliferation policy of the United States.

(b) MATTERS TO BE COVERED IN REPORT.—The report shall—

(1) address how the Secretary of Defense integrates and coordinates existing intelligence and military capabilities of the Department of Defense and how the Secretary of Energy integrates and coordinates the intelligence and emergency response capabilities of the Department of Energy in support of the nonproliferation policy of the United States;

(2) identify existing and planned capabilities within the Department of Defense, including particular capabilities of the military services, and the Department of Energy to (A) detect and monitor clandestine weapons of mass destruction programs, (B) respond to terrorism or accidents involving such weapons and to theft of related weapons materials, and (C) assist with interdiction and destruction of weapons of mass destruction and related weapons materials;

(3) describe, for the Department of Defense, the degree to which the Secretary of Defense has incorporated a nonproliferation mission into the overall mission of the unified combatant commands and how the Special Operations Com-

mand might support the commanders of the unified and specified commands in that mission;

(4) consider the appropriate roles of the Defense Advance Research Projects Agency (DARPA), the Defense Nuclear Agency (DNA), the On-Site-Inspection Agency (OSIA), and other Department of Defense agencies, as well as the national laboratories of the Department of Energy, in providing technical assistance and support for the efforts of the Department of Defense and the Department of Energy with respect to nonproliferation; and

(5) identify existing and planned mechanisms for improving the integration of Department of Defense and Department of Energy nonproliferation activities with those of other Federal departments and agencies.

(c) COORDINATION WITH OTHER AGENCIES.—The report required by subsection (a) shall, for purposes of subsection (b)(5), be coordinated with the heads of other appropriate departments and agencies.

(d) SUBMISSION OF REPORT.—(1) The report required by subsection (a) shall be submitted—

(A) to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.[52]

(2) The report shall be submitted not later than 180 days after the date of enactment of this Act and shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1504. NONPROLIFERATION TECHNOLOGY INITIATIVE.

(a) FUNDS FOR DEPARTMENT OF DEFENSE ACTIVITIES.—

(1) Of the amount appropriated pursuant to section 103(3) for Other Procurement, Air Force, $5,000,000 shall be available for the AFTAC Chem/Biological Collection/Processing program.

(2) Of the amount appropriated pursuant to section 201(3) for Research, Development, Test, and Evaluation, Air Force, $6,500,000 shall be available for the Joint Seismic Program.

(3) Of the amount appropriated pursuant to section 201(4) for Research, Development, Test, and Evaluation, Defense Agencies—

(A) $11,600,000 shall be available for LIDAR,

(B) $5,000,000 shall be available for Seismic programs of the Defense Advanced Research Projects Agency, and

(C) $15,000,000 shall be available for Nuclear Proliferation Detection Technology programs of the Defense Advanced Research Projects Agency.

(b) FUNDS FOR DEPARTMENT OF ENERGY ACTIVITIES.—Of the amount appropriated pursuant to section 3104(a)(2) for Verification and Control Technologies, $86,000,000 shall be available for nu-

[52] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations; and sec. 1(a)(4) provided that references to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce.

clear nonproliferation detection technologies and activities. Of such amount, not more than $30,000,000 may be obligated until the report required by section 1503 is submitted.

SEC. 1505.[53] INTERNATIONAL NONPROLIFERATION INITIATIVE.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section,[54] the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by international organizations[55] that are designed to ensure more effective safeguards against[56] proliferation and more effective[57] verification of compliance with international agreements on nonproliferation.[58]

(2) Activities of the Department of Defense[59] in support of the United Nations Special Commission on Iraq.

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing.[60]

(c) FORM OF ASSISTANCE.—(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

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[53] 22 U.S.C. 5859a.

[54] Sec. 1602(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1843) struck out "fiscal year 1993" and inserted in lieu thereof "fiscal year 1994" in subsecs. (a), (d)(1), and (e). Sec. 1501(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2914) struck out "during fiscal year 1994" in subsec. (a) and inserted in lieu thereof "during fiscal years 1994 and 1995", and in subsec. (e)(1) struck out "fiscal year 1994" and inserted in lieu thereof "fiscal years 1994 and 1995". Sec. 1403(a)(1) of Public Law 104–106 (110 Stat. 489) struck out "during fiscal years 1994 and 1995", and sec. 1403(a)(2) of that Act amended sec. (e)(1) by striking out "fiscal years 1994 and 1995" and inserting in lieu thereof "a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect".

[55] Sec. 1501(b)(1)(A) of Public Law 103–337 (108 Stat. 2914) struck out "the International Atomic Energy Agency (IAEA)" and inserted in lieu thereof "international organizations".

[56] Sec. 1501(b)(1)(B) of Public Law 103–337 (108 Stat. 2914) struck out "nuclear" before "proliferation".

[57] Sec. 1501(b)(1)(C) of Public Law 103–337 (108 Stat. 2914) struck out "aggressive" and inserted in lieu thereof "effective".

[58] Sec. 1501(b)(1)(D) of Public Law 103–337 (108 Stat. 2914) struck out "the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968." and inserted in lieu thereof "international agreements on nonproliferation.".

[59] Sec. 1403(b)(1) of Public Law 104–106 (110 Stat. 489) struck out "the On-Site Inspection Agency" and inserted "the Department of Defense" in subsecs. (b)(2) and (d)(3).

[60] Sec. 1501(b)(2) of Public Law 103–337 (108 Stat. 2914) struck out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserted in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted as discretionary spending in the national defense budget function (function 050).[61]

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

(d) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.[62] Funds provided as assistance under this section for a fiscal year[63] may also be derived from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section,[64] including funds used for activities of the Department of Defense[59] in support of the United Nations Special Commission on Iraq,[65] may not exceed $25,000,000 for fiscal year

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[61] Sec. 1403(b)(2) of Public Law 104–106 (110 Stat. 490) struck out "will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985." and inserted in lieu thereof "will be counted as discretionary spending in the national defense budget function (function 050).".

[62] Sec. 1403(c)(1)(A) of Public Law 104–106 (110 Stat. 490) amended and restated the first two sentences of subsec. (d)(1). Previously, sec. 1501(c)(1) of Public Law 103–337 (108 Stat. 2914) amended the subsection.

See also footnote 51.

[63] Sec. 1403(c)(1)(B) of Public Law 104–106 (110 Stat. 490) struck out " referred to in this paragraph" after "for a fiscal year".

[64] Sec. 1501(c)(2) of Public Law 103–337 (108 Stat. 2914) inserted "for fiscal year 1994 or $20,000,000 for fiscal year 1995" after "$25,000,000". Sec. 1403(c)(2)(A) of Public Law 104–106 (110 Stat. 490) subsequently struck out "may not exceed $25,000,000 for fiscal year 1994 or $20,000,000 for fiscal year 1995" and inserted ', may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, or $15,000,000 for fiscal year 1996" at the end of the sentence. Subsequent to that, sec. 1301(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2700) struck out "or" after "fiscal year 1995" and added ", or $15,000,000 for fiscal year 1997" at the end of the sentence. Subsequent to that, sec. 1308(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1956) struck out "or" after "fiscal year 1996" and added ", or $15,000,000 for fiscal year 1998" at the end of the sentence.

[65] Sec. 1602(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1843) struck out "$40,000,000" and inserted in lieu thereof "$25,000,000, including funds used for activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq".

Sec. 1602(b)(2) of that Act, furthermore, struck out a second sentence in par. (3), which read as follows: "Of such amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.".

Sec. 1602(c) of that Act struck out par. (4), which read as follows:

"(4) Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) a report on the proposed obligation. Each such report shall specify—

"(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

1994, $20,000,000 for fiscal year 1995, $15,000,000 for fiscal year 1996, $15,000,000 for fiscal year 1997, or $15,000,000 for fiscal year 1998.

(4)[66] (A) In the event of a significant unforeseen development related to the activities of the United Nations Special Commission on Iraq for which the Secretary of Defense determines that financial assistance under this section is required at a level which would result in the total amount of assistance provided under this section during the then-current fiscal year exceeding the amount specified with respect to that year under paragraph (3), the Secretary of Defense may provide such assistance notwithstanding the limitation with respect to that fiscal year under paragraph (3). Funds for such purpose may be derived from any funds available to the Department of Defense for that fiscal year.

(B) Financial assistance may be provided under subparagraph (A) only after the Secretary of Defense provides notice in writing to the committees of Congress named in subsection (e)(2) of the significant unforeseen development and of the Secretary's intent to provide assistance in excess of the limitation for that fiscal year under paragraph (3). However, if the Secretary determines in any case that under the specific circumstances of that case advance notice is not possible, such notice shall be provided as soon as possible and not later than 15 days after the date on which the assistance is provided. Any notice under this subparagraph shall include a description of the development, the amount of assistance provided or to be provided, and the source of the funds for that assistance.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect,[54] the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1)[67] are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

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"(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds.".

[66] Sec. 1301(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2700) added para. (4).

[67] Sec. 1070(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857) struck out "and under subsection (d)(4)" after "paragraph (1)". Previously, sec. 1182(c)(5) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772) struck out "(d)(2)" and inserted in lieu thereof "(d)(4)".

(B)[68] the Committee on National Security, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce of the House of Representatives.

(f)[69] TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 1998.[70]

TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992[71]

SEC. 1601. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 1602. UNITED STATES POLICY.

(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could materially contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, chapter 7 of the Arms Export Control Act,[72] and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1607) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

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[68] Sec. 1502(c)(2)(B) of Public Law 104–106 (110 Stat. 507) struck out "the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce" and inserted in lieu thereof "the Committee on National Security, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce".

[69] Sec. 1403(a)(3) of Public Law 104–106 (110 Stat. 489) added subsec. (f).

[70] Sec. 1301(a)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2700) struck out "1996" and inserted in lieu thereof "1997". Sec. 1308(2) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1956) struck out "1997" and inserted in lieu thereof "1998".

[71] 50 U.S.C. 1701 note. In a September 27, 1994, memorandum for the Secretary of State, the President delegated all functions vested in the President by this title to the Secretary of State, in consultation with the Secretaries of Defense, Treasury, Commerce, the Director of the Arms Control and Disarmament Agency, and other heads of appropriate departments and agencies (59 F.R. 50685).

[72] Foreign Assistance Act of 1961 (Public Law 87–195), see *Legislation on Foreign Relations Through 1997*, vol. I–A; Nuclear Non-Proliferation Act of 1978 (Public Law 95–242), see *Legislation on Foreign Relations Through 1997*, vol. IV, sec. L; Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 101–182), see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F; chapter 7 of the Arms Export Control Act, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

SEC. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[73] to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a) are as follows:

(1) PROCUREMENT SANCTION.—For a period of two years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of two years, the United States Government shall not issue any license for any export by or to the sanctioned person.

SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[74] to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanction described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of one year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of one year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

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[73] Sec. 1408(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494), inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

[74] Sec. 1408(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of one year.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is as follows:

(1) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Except as provided in paragraph (2), the President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to urgent humanitarian assistance.

SEC. 1606. WAIVER.

The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[75] of the House of Representatives that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 1607. REPORTING REQUIREMENT.

(a) ANNUAL REPORT.—Beginning one year after the date of the enactment of this Act, and every 12 months thereafter, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Serv-

[75] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

ices and Foreign Affairs[75] of the House of Representatives a report detailing—

(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[75] of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 1608. DEFINITIONS.

For purposes of this title:

(1) The term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title.

(2) The term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag.

(3) The term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

(4) The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries.

(5) The term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1605.

(6) The term "sanctioned person" means a person that makes a transfer described in section 1604(a).

(7) The term "United States assistance" means—

(A)[76] any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than urgent humanitarian assistance or medicine.

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

TITLE XVII—CUBAN DEMOCRACY ACT OF 1992

SEC. 1701.[77] SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1702.[78] FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

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[76] Sec. 1408(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) amended and restated subpara. (A). It formerly read as follows:

"(A) any assistance under the Foreign Assistance Act of 1961, other than—

"(i) urgent humanitarian assistance or medicine, and

"(ii) assistance under chapter 11 of part I (as enacted by the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992);".

[77] 22 U.S.C. 6001 note.

[78] 22 U.S.C. 6001.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 1703.[79] STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

[79] 22 U.S.C. 6002.

(9) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(10) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 1704.[80, 81] INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba;[82]

(B)[82] includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and

(C)[82] does not include—

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[80] 22 U.S.C. 6003. Authority in this section was delegated to the Secretary of State, pursuant to sec. 2 of Executive Order 12854 (58 F.R. 36587; July 4, 1993).

[81] Sec. 204 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 810) authorized the President to take steps to suspend the economic embargo of Cuba upon submitting a determination to the appropriate congressional committees that a transition government is in power in Cuba. The section, furthermore, repealed the following sections of law upon the issuance of a Presidential determination that a democratically elected government is in power in Cuba:

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with respect to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005); and

(4) section 902(c) of the Food Security Act of 1985.

Congress, until such a transition to democracy in Cuba is attained, reaffirmed the intent of section 1704, and other sections, of the Cuban Democracy Act. See Public Law 104–114.

[82] Sec. 102(f) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 793) struck out "and" at the end of subpara. (A); redesignated subpara. (B) as subpara. (C); inserted a new subpara. (B); and added the flush sentence at the end of para. (2).

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1705(c).

As used in this paragraph, the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1708(a).

SEC. 1705.[83] SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act;[84]

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d)[81] REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

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[83] 22 U.S.C. 6004.

[84] For text, see *Legislation on Foreign Relations Through 1997*, vol. III, sec. J.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(5)[85] PROHIBITION ON INVESTMENT IN DOMESTIC TELECOMMUNICATIONS SERVICES.—Nothing in this subsection shall be construed to authorize the investment by any United States person in the domestic telecommunications network within Cuba. For purposes of this paragraph, an "investment" in the domestic telecommunications network within Cuba includes the contribution (including by donation) of funds or anything of value to or for, and the making of loans to or for, such network.

(6)[85] REPORTS TO CONGRESS.—The President shall submit to the Congress on a semiannual basis a report detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The United States Government may provide assistance, through appropriate

[85] Sec. 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 793) added paras. (5) and (6).

nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

SEC. 1706.[81, 86] SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft;

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)); and

(C) the term "Cuban national" means a national of Cuba, as the term "national" is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992.

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

[86] 22 U.S.C. 6005.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1705 or section 1707 of this Act or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1707.[87] POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs[88] of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 1708.[89] POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 1706 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

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[87] 22 U.S.C. 6006.

[88] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[89] 22 U.S.C. 6007.

(3) To take steps to end the United States trade embargo of Cuba.

SEC. 1709.[90] EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1705(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.[91]

SEC. 1710.[92] ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this title. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1705 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16)[93] is amended—

(1) by striking "That whoever" and inserting "(a) Whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

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[90] 22 U.S.C. 6008.
[91] For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.
[92] 22 U.S.C. 6009.
[93] For text, see *Legislation on Foreign Relations Through 1997*, vol. III, sec. J.

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this title.

SEC. 1711.[94] DEFINITION.

As used in this title, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1712.[95] EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle D—International Fissile Material and Warhead Control

SEC. 3151. NEGOTIATIONS.

(a) IN GENERAL.—The Congress urges the President to enter into negotiations with member states of the Commonwealth of Independent States, to complement ongoing and future arms reduction negotiations and agreements, with the goal of achieving verifiable agreements in the following areas:

(1) Dismantlement of nuclear weapons.

(2) The safeguard and permanent disposal of nuclear materials.

(3) An end by the United States and member states of the Commonwealth of Independent States to the production of plutonium and highly enriched uranium for nuclear weapons.

(4) The extension of negotiations on these issues to all nations capable of producing nuclear weapons materials.

(b) EXCHANGES OF INFORMATION.—The Congress urges the President, in order to establish a data base on production capabilities of member states of the Commonwealth of Independent States and their stockpiles of fissile materials and nuclear weapons, to seek to achieve agreements with such states to reciprocally release information on—

(1) United States and the member states nuclear weapons stockpiles, including the number of warheads and bombs by

[94] 22 U.S.C. 6010.
[95] 22 U.S.C. 6001 note.

type, and schedules for weapons production and dismantlement;

(2) the location, mission, and maximum annual production capacity of United States and member states facilities that are essential to the production of tritium for replenishment of that nation's tritium stockpile;

(3) the inventory of United States and member states facilities dedicated to the production of plutonium and highly enriched uranium for weapons purposes; and

(4) United States and members states stockpiles of plutonium and highly enriched uranium used for nuclear weapons.

(c) TECHNICAL WORKING GROUPS.—The Congress urges the President, in order to facilitate the achievement of agreements referred to in subsection (a), to establish with member states of the Commonwealth of Independent States and with other nations capable of producing nuclear weapons material bilateral or multilateral technical working groups to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the verification of—

(1) information on mission, location, and maximum annual production capacity of nuclear material production facilities and the size of stockpiles of plutonium and highly enriched uranium;

(2) nuclear arms reduction agreements that would include provisions requiring the verifiable dismantlement of nuclear warheads; and

(3) bilateral or multilateral agreements to halt the production of plutonium and highly enriched uranium for nuclear weapons.

(d) REPORT.—The President shall submit to the Congress, not later than March 31, 1993, a report on the progress made by the President in implementing the actions called for in subsections (a) through (c).

(e) PRODUCTION BY COMMONWEALTH OF INDEPENDENT STATES.—The Congress urges the Presidents of the member states of the Commonwealth of Independent States—

(1) to institute a moratorium on production of plutonium and highly enriched uranium for nuclear weapons; and

(2) to pledge to continue such moratorium for so long as the United States does not produce such materials.

SEC. 3152. AUTHORITY TO RELEASE CERTAIN RESTRICTED DATA.

Section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162)[96] is amended by adding at the end the following new subsection:

"f. Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data.".

[96] For text, see *Legislation on Foreign Relations Through 1997*, vol. IV, sec. L.

SEC. 3153. DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) PROGRAM.—Of funds authorized to be appropriated in section 3104 for fiscal year 1993 for verification and control activities, $10,000,000 shall be available only to carry out a program—

(1) to develop and demonstrate a means for verifiable dismantlement of nuclear warheads;

(2) to safeguard and dispose of nuclear materials; and

(3) to develop reliable techniques and procedures for verifying a global ban on the production of fissile materials for weapons purposes.

(b) REPORT.—The Secretary shall include a report on such program in budget justification documents submitted to Congress in support of the budget of the Department of Energy for fiscal year 1994. The report shall be submitted in both classified and unclassified form.

SEC. 3154. PRODUCTION OF TRITIUM.

Nothing in this part may be construed as intending to affect the production of tritium.

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TITLE XXXII—NATIONAL SAFETY

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SEC. 3202. NUCLEAR SAFETY IN EASTERN EUROPE AND THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Chernobyl nuclear reactor accident on April 26, 1986, has resulted in $283 to $352 billion worth of damage, with more than 4,000,000 people still living on land contaminated with radiation;

(2) there are 16 Chernobyl-type RBMK reactors now operating in Russia, Ukraine, and Lithuania, all of which have faulty designs, poor construction, and dangerously lax and outdated operating procedures;

(3) there are dozens of Soviet-designed reactors now operating in Eastern Europe and the former Soviet Union with poor construction and lax and outdated operating procedures;

(4) a serious nuclear reactor accident in one of the newly freed states of Eastern Europe and the former Soviet Union would seriously exacerbate these states' difficult progress towards economic recovery and could lead to political instability;

(5) retrofitting the RBMK reactors with modern Western safety equipment will result in only marginal safety improvements at great expense; and

(6) alternative power sources, such as natural gas turbines, and modern energy efficiency measures and technologies could displace the need for much of the power which these reactors provide.

(b) UNITED STATES POLICY.—It is the sense of Congress that the President should undertake bilateral and multilateral initiatives, including trade initiatives, to—

(1) assist in bringing on line enough replacement power and modern energy efficiency measures and technologies in the

states of Eastern Europe and the former Soviet Union so that the RBMK reactors may be shut down as soon as possible and placed in stable condition to prevent radiological contamination;

(2) assist the states of Eastern Europe and the former Soviet Union in upgrading their other nuclear reactors to Western standards of safety and in ensuring that all of their nuclear reactors receive routine maintenance and repairs;

(3) encourage and provide technical assistance to Russia and Ukraine to enact domestic legislation governing nuclear reactor safety;

(4) negotiate formal agreements for nuclear cooperation with Russia and Ukraine;

(5) identify nuclear safety research as a principal focus of the soon-to-be created nuclear science centers in Ukraine and Russia; and

(6) make greater resources available to the International Atomic Energy Agency to promote programs of nuclear safety in Eastern Europe and the former Soviet Union.

(c)[97] REPORTING REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report with a systematic assessment of the nuclear reactor safety situation in Eastern Europe and the former Soviet Union, with a description of specific bilateral and multilateral initiatives the Administration is taking and plans to take to address these nuclear safety issues.

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DIVISION D—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

SEC. 4001.[98] SHORT TITLE.

This division may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Act of 1992".

TITLE XLI—FINDINGS

SEC. 4101.[98] FINDINGS.

Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have

[97] In a Memorandum of March 4, 1993, for the Secretary of State, the President delegated to the Secretary of State all functions authorized in sec. 3202(c) (58 F.R. 14303; March 17, 1993).
[98] 10 U.S.C. 2491 note.

been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national technology and industrial base.

(7) Prompt and vigorous implementation of defense conversion, reinvestment, and transition assistance programs is essential to ensure that the defense build down is structured in a manner that—

(A) enhances the long-term ability of the United States to maintain a strong and vibrant national technology and industrial base; and

(B) promotes economic growth.

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TITLE XLIII—COMMUNITY ADJUSTMENT AND ASSISTANCE PROGRAMS AND YOUTH SERVICE PROGRAMS

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SEC. 4304.[99] LIMITATION ON USE OF EXCESS CONSTRUCTION OR FIRE EQUIPMENT FROM DEPARTMENT OF DEFENSE STOCKS IN FOREIGN ASSISTANCE OR MILITARY SALES PROGRAMS. * * *

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[99] Sec. 4304 added 10 U.S.C. 2552.

k. Department of Defense Appropriations Act, 1993

Partial text of Public Law 102–396 [H.R. 5504], 106 Stat. 1876, approved October 6, 1992; amended by Public Law 103–139 [Department of Defense Appropriations Act, 1994; H.R. 3116], 107 Stat. 1418, approved November 11, 1993; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

TITLE II

OPERATION AND MAINTENANCE

* * * * * * *

HUMANITARIAN ASSISTANCE

* * **Provided further,*[1] That where required and notwithstanding any other provision of law, funds made available under this heading for fiscal year 1993 or thereafter, shall be available for emergency transportation of United States or foreign nationals or the emergency transportation of humanitarian relief personnel in conjunction with humanitarian relief operations.

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TITLE IX

GENERAL PROVISIONS

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SEC. 9005.[2] During the current fiscal year and hereafter, no part of any appropriation or any other funds available to the Depart-

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[1] 10 U.S.C. 401 note.

[2] 10 U.S.C. 2241 note. Sec. 8109 of The Department of Defense Appropriations Act, 1997 (sec. 101(b) of title I of Public Law 104–208; 110 Stat. 3009) provided the following:

"SEC. 8109. In applying section 9005 of the Department of Defense Appropriations Act, 1993, Public Law 102–396 (10 U.S.C. 2241 note), during the current fiscal year and thereafter—

"(1) the term 'synthetic fabric and coated synthetic fabric' shall be deemed to include all textile fabrics and yarns that are for use in such fabrics; and

"(2) such section shall be treated, notwithstanding section 34 of Public Law 93–400 (41 U.S.C. 430), as being applicable to contracts and subcontracts for the procurement of commercial items that are articles or items, specialty metals, or tools covered by that section 9005.".

ment of Defense,[3] except for small purchases covered by section 2304(g) of title 10, United States Code, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

* * * * * * *

This Act may be cited as the "Department of Defense Appropriations Act, 1993".

[3] Sec. 8005 of Public Law 103–139 (107 Stat. 1438) struck out "contained in this Act" and inserted in lieu thereof "or any other funds available to the Department of Defense".

l. National Defense Authorization Act for Fiscal Years 1992 and 1993[1]

Partial text of Public Law 102–190 [H.R. 2100], 105 Stat. 1290, approved December 5, 1991; amended by Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 5006], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; H.R. 4650], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1992 and 1993".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[2]

SEC. 4. EXPIRATION OF AUTHORIZATIONS FOR FISCAL YEARS AFTER 1992.

Authorizations of appropriations, and of personnel strength levels, in this Act for any fiscal year after fiscal year 1992 are effective only with respect to appropriations made during the first session of the One Hundred Second Congress.

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[1] See also partial text of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 75).

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

* * * * * * *

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

(a) FUNDING.—Funds are hereby authorized to be appropriated for fiscal year 1992 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), in the amount of $472,602,000.

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PART F—OTHER MATTERS

SEC. 151.[3] CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM. * * *

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SEC. 153. LIMITATIONS RELATING TO REDEPLOYMENT OF MINUTEMAN III ICBMS.

(a) PROHIBITION REGARDING OPERATIONALLY DEPLOYED MISSILES.—Funds appropriated for fiscal year 1992 or any fiscal year preceding fiscal year 1992 pursuant to an authorization contained in this or any other Act may not be obligated or expended for the redeployment or transfer of operationally deployed Minuteman III intercontinental ballistic missiles from one Air Force ICBM base to another Air Force ICBM base.

(b) LIMITATION REGARDING STORED MISSILES.—No Minuteman III missile in storage may be transferred to a Minuteman II silo until the Secretary of Defense submits to Congress a plan for the restructuring of the United States strategic forces consistent with the strategic arms reduction talks (START) treaty signed by the United States and the Soviet Union. Such plan shall include—

(1) a discussion of the force structure options that were considered in developing the plan;

(2) for each option, the locations for the Minuteman III ICBMs and Small ICBMs and the number of each such type of missile for each location;

(3) the cost of each such option; and

(4) the reasons for selecting the force structure provided for in the plan.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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[3] Sec. 151 amended sec. 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

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SEC. 222. ICBM MODERNIZATION PROGRAM.

(a) FUNDING.—Of the amounts appropriated pursuant to section 201 for fiscal year 1992, not more than $566,444,000 shall be available for the intercontinental ballistic missile (ICBM) modernization program, of which—

(1) not more than $548,838,000 shall be available for the small ICBM (SICBM) program; and

(2) none shall be available for the rail garrison MX (RGMX) program.

(b) LIMITATION.—(1) The funds described in subsection (a)(1) may not be obligated until the Secretary of Defense certifies to the congressional defense committees that a sufficient amount of such funds will be obligated to conduct a viable program of research and development of mobile basing options for the SICBM program consistent with the sense of Congress set forth in section 231(b)(4) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1516).

(2) Not later than 90 days after the date on which the Secretary makes a certification under paragraph (1), the Secretary shall submit to the congressional defense committees a report describing—

(A) the revised research and development program for SICBM mobile basing options;

(B) the amount of the funds that the Secretary intends to obligate in each of fiscal years 1992 through 1997 for such program; and

(C) the earliest date on which a SICBM mobile basing option will be available in the event that conditions warrant a rebasing of the missile from existing Minuteman ICBM silos.

(c) REPORT.—Not later than March 1, 1992, the Secretary of Defense shall submit to the congressional defense committees a report on the cost and practicality of extending the service life of existing Minuteman III ICBMs beyond the year 2010.

(d) AVAILABILITY OF UNOBLIGATED FISCAL YEAR 1991 FUNDS.—(1) Of the balance of the amount appropriated for the Air Force for fiscal year 1991 for research, development, test, and evaluation for ICBM modernization that remains available for obligation, $17,500,000 may, to the extent provided in appropriations Acts, be used during fiscal year 1992 for obligation for the procurement of MX missiles.

(2) The authority provided in paragraph (1) does not extend the period of the availability for obligation of the funds referred to in that paragraph.

(3) The authority provided in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

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[4] Formerly at 10 U.S.C. 2431 note. Sec. 238 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 233) repealed part C—the Missile Defense Act of 1991. See the Ballistic Missile Defense Act of 1995 at secs. 231–238 of Public Law 104–106 (110 Stat. 228).

PART C—MISSILE DEFENSE PROGRAM * * * [Repealed—1996][4]

PART D—OTHER MISSILE DEFENSE MATTERS

SEC. 241. ARROW TACTICAL ANTI-MISSILE PROGRAM.

(a) COOPERATIVE RESEARCH AND DEVELOPMENT.—Congress endorses a continuing program of cooperative research and development, jointly funded by the United States and the government of Israel, on the Arrow Tactical Anti-Missile program with a view to proving out (through such cooperative research and development) the feasibility and practicality of the system.

(b) ARROW DEPLOYABILITY INITIATIVE.—(1) Subject to paragraphs (2) and (3), the Secretary of Defense may obligate from funds appropriated pursuant to section 201 for fiscal year 1992 up to $54,400,000 for the purpose of initiating research and development of systems to deploy the Arrow missile in the future, such as battle management, lethality, system integration, test bed, and fire control radar. Funds for such purpose may not be derived from funds available for the Strategic Defense Initiative.

(2) The authority under paragraph (1) is in addition to any other authority provided in this Act regarding the Arrow Tactical Anti-Missile program.

(3) Funds may not be obligated for the purpose described in paragraph (1) unless—

(A) the United States and the government of Israel enter into a Memorandum of Understanding governing the conduct and funding of such an effort;

(B) the Secretary of Defense certifies to the congressional defense committees that the Arrow missile has successfully completed the current four-test proof-of-principle flight test program; and

(C)[5] the President has certified to Congress—

(i) with respect to any waiver of activities sanctionable under the laws described in paragraph (4) granted on or before the date of the enactment of this Act to any firm involved in the Arrow program at the time of such certification, that such activities have been terminated and the government of the nation in which such firm is located has given assurances to the United States that such activities by such firm will not be repeated; and

(ii) that the government of Israel has undertaken to adopt export controls pursuant to the Guidelines and Annex of the Missile Technology Control Regime (MTCR).

(4) The laws referred to in paragraph (3)(C)(i) are section 73(a)(1) of the Arms Export Control Act, section 11B(b)(1) of the Export Administration Act of 1979, and sections 1702 and 1703 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510).

[5] Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including delegating the authority in sec. 241(b)(3)(C) to make certain certifications to the Secretary of State.

SEC. 242. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS.

(a) USE OF FUNDS.—

(1) LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1992, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1992 or for any fiscal year before 1992, may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the May 1991 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the May 1991 SDIO Report.

(2) EXCEPTION.—The limitation under paragraph (1) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1992 if the transfer is made in accordance with section 1001 of this Act.

(b) DEFINITION.—In this section, the term "May 1991 SDIO Report" means the report entitled, "1991 Report to Congress on the Strategic Defense Initiative," dated May 16, 1991, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1398; 10 U.S.C. 2431).

PART E—OTHER MATTERS

SEC. 251. MEDICAL COUNTERMEASURES AGAINST BIOWARFARE THREATS.

(a) FUNDING.—Of the amounts appropriated pursuant to section 201 for fiscal year 1992, not more than $53,800,000 shall be available for the medical component of the Biological Defense Research Program (BDRP) of the Department of Defense.

(b) LIMITATIONS.—(1) No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1992 may be obligated or expended for product development, or for research, development, testing, or evaluation, of medical countermeasures against a biowarfare threat except for medical countermeasures against a validated biowarfare threat agent or a potential (far-term) biowarfare threat agent.

(2) Of the funds made available pursuant to subsection (a), not more than $10,000,000 may be obligated or expended for research, development, testing, and evaluation of medical countermeasures against potential (far-term) biowarfare threats.

(c) DEFINITIONS.—In this section:

(1) The term "biowarfare threat agent" means a biological agent that—

(A) is named in the biological warfare threat list published jointly by the Defense Intelligence Agency (DIA) and the Armed Forces Medical Intelligence Center (AFMIC); or

(B) is identified as a biowarfare agent by the Deputy Chief of Staff of the Army for Intelligence in accordance with Army regulations applicable to intelligence support for the medical component of the Biological Defense Research Program.

(2) The term "validated biowarfare threat agent" means a biowarfare threat agent that is being or has been developed or produced for weaponization within 10 years, as assessed and determined jointly by the Defense Intelligence Agency and the Armed Forces Medical Intelligence Center.

(3) The term "potential (far-term) biowarfare threat agent" means a biowarfare threat agent that is an emerging or future biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined jointly by the Defense Intelligence Agency and the Armed Forces Medical Intelligence Center.

(4) The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

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SEC. 255. CONTINUED COOPERATION WITH JAPAN ON TECHNOLOGY RESEARCH AND DEVELOPMENT.

Of the funds authorized to be appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1992, and made available for basic research, exploratory development, and advanced technology, $10,000,000 shall be available for such fiscal year for research and development projects conducted jointly by the United States and Japan in accordance with section 1454(d) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1695).

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1992 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

* * *

(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,158,600,000.

* * *

(17) For Humanitarian Assistance, $13,000,000.

(b) * * *

(c) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.—Funds are hereby authorized to be appropriated for fiscal year 1993

for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

* * *

(13) For Drug Interdiction and Counter-Drug Activities, Defense, $1,249,400,000.

* * *

(16) For Humanitarian Assistance, $13,000,000.

* * * * * * *

SEC. 304.[6] HUMANITARIAN ASSISTANCE.

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(a)(17) for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.

(2) Of the funds authorized to be appropriated for fiscal year 1992 pursuant to such section for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such section for fiscal year 1992 for humanitarian assistance, other than the funds described in subsection (a)(2), to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such section for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

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[6] See 10 U.S.C. 2551. See also sec. 304 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2361). Sec. 304(e) of that Act struck out subsec. (f) of this sec., relating to reports to Congress.

PART D—OTHER MATTERS

SEC. 341.[7] ANNUAL REPORT ON DEFENSE CAPABILITIES AND PROGRAMS OF THE ARMED FORCES. * * *

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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PART C—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE INITIATIVES

SEC. 821.[8] DEVELOPMENT OF CRITICAL TECHNOLOGIES. * * *

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SEC. 828.[9] UNITED STATES-JAPAN MANAGEMENT TRAINING PROGRAMS. * * *

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PART D—OTHER DEFENSE INDUSTRIAL BASE MATTERS

SEC. 831. REQUIREMENT FOR SUBMITTAL OF PLANS RELATING TO THE IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE.

(a) EVALUATION OF USE OF FOREIGN COMPONENTS BY DEFENSE INDUSTRIAL BASE.—(1) The Secretary of Defense shall submit to the congressional defense committees a plan for the collection and assessment of information on the extent to which the defense industrial base of the United States—

(A) procures subsystems of weapon systems, components of weapon systems, and components of subsystems of weapon systems from foreign sources; and

(B) is dependent upon those foreign sources for the procurement of such subsystems and components.

(2) The report shall be prepared in coordination with the Secretary of Commerce and the United States Trade Representative.

(3) The report shall be submitted not later than March 15, 1992.

(b) IDENTIFICATION OF BARRIERS TO INTEGRATION OF COMMERCIAL AND DEFENSE INDUSTRIAL BASE.—(1) The Secretary of Defense shall submit to the congressional defense committees a plan for the removal of barriers to the effective integration of the commercial and defense sectors of the industrial base of the United States.

(2) The plan shall include—

(A) the Secretary's recommendations for any legislation necessary to remove those barriers;

(B) a discussion of the actions to be taken by the Secretary to remove those barriers; and

(C) a summary of the information relied on in the development of the plan.

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[7] Sec. 341 amended 10 U.S.C. 113(i)(2).

[8] Sec. 821 added secs. 2521, 2523–2526, and redesignated sec. 2508 as 2522 of 10 U.S.C., as chapter 150—Development of Dual-Use Critical Technologies. Secs. 2525 and 2526, establishing the Office for Foreign Defense Critical Technology Monitoring and Assessment, and the Overseas foreign critical technology monitoring and assessment financial assistance program, have been redesignated as secs. 2517–18, respectively.

[9] Sec. 828 added 10 U.S.C. 2198—Management training program in Japanese language and culture.

(3) The Secretary shall designate an official within the Office of the Secretary of Defense to develop the plan. In developing the plan, that official shall, in consultation with appropriate representatives of other departments and agencies of the Federal Government, State and local governments, and the private sector, identify and evaluate—

(A) the areas of industrial production in which a greater integration of commercial and defense activities would be beneficial for national defense purposes;

(B) any Federal, State, and local statutes, regulations, and policies that are barriers to the integration of those activities; and

(C) the actions necessary to remove the barriers to the integration of those activities.

(4) The report shall be submitted not later than September 30, 1992.

SEC. 832.[10] REQUIREMENTS RELATING TO EUROPEAN MILITARY PROCUREMENT PRACTICES.

(a) EUROPEAN PROCUREMENT PRACTICES.—The Secretary of Defense shall—

(1) compute the total value of American-made military goods and services procured each year by European governments or companies;

(2) review defense procurement practices of European governments to determine what factors are considered in the selection of contractors and to determine whether American firms are discriminated against in the selection of contractors for purchases by such governments of military goods and services; and

(3) establish a procedure for discussion with European governments about defense contract awards made by them that American firms believe were awarded unfairly.

(b) DEFENSE TRADE AND COOPERATION WORKING GROUP.—The Secretary of Defense shall establish a defense trade and cooperation working group. The purpose of the group is to evaluate the impact of, and formulate United States positions on, European initiatives that affect United States defense trade, cooperation, and technology security. In carrying out the responsibilities of the working group, members of the group shall consult, as appropriate, with personnel in the Departments of State and Commerce and in the Office of the United States Trade Representative.

(c) GAO REVIEW.—The Comptroller General shall conduct a review to determine how the members of the North Atlantic Treaty Organization are implementing their bilateral reciprocal defense procurement memoranda of understanding with the United States. The Comptroller General shall complete the review, and submit to Congress a report on the results of the review, not later than February 1, 1992.

[10] 10 U.S.C. 113 note.

SEC. 833.[11] BUY AMERICAN ACT WAIVER RESCISSIONS.

(a) DETERMINATION BY THE SECRETARY OF DEFENSE.—(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

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TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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PART C—INTELLIGENCE MATTERS

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SEC. 924.[12] DEPARTMENT OF DEFENSE USE OF NATIONAL INTELLIGENCE COLLECTION SYSTEMS.

(a) PROCEDURES FOR USE.—The Secretary of Defense, after consultation with the Director of Central Intelligence, shall prescribe procedures for regularly and periodically exercising national intelligence collection systems and exploitation organizations that would be used to provide intelligence support, including support of the combatant commands, during a war or threat to national security.

(b) USE IN JOINT TRAINING EXERCISES.—In accordance with procedures prescribed under subsection (a), the Chairman of the Joint Chiefs of Staff shall provide for the use of the national intelligence collection systems and exploitation organizations in joint training

[11] Former 41 U.S.C. 10b–2. See new 41 U.S.C. 10b–2 at sec. 8042 of Department of Defense Appropriations Act, 1997 (sec. 101(b) of title I of Public Law 104–208; 110 Stat. 3009).
[12] 10 U.S.C. 113 note.

exercises to the extent necessary to ensure that those systems and organizations are capable of providing intelligence support, including support of the combatant commands, during a war or threat to national security.

(c) REPORT.—Not later than May 1, 1992, the Secretary of Defense and the Director of Central Intelligence shall submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a joint report—

(1) describing the procedures prescribed under subsection (a); and

(2) stating the assessment of the Chairman of the Joint Chiefs of Staff of the performance in joint training exercises of the national intelligence collection systems and the Chairman's recommendations for any changes that the Chairman considers appropriate to improve that performance.

TITLE X—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1992 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,250,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

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PART B—NAVAL VESSELS AND RELATED MATTERS

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SEC. 1014. REPORT ON CRITERIA USED BY NAVY FOR RECOMMENDING APPROVAL OF SUBMARINE EXPORT LICENSE.

Not later than four months after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees a report on the matters that would be taken into account and the criteria that would be used by the Secretary in determining whether to recommend to the Secretary of State that a license for the export of a submarine constructed in the United States be granted to the applicant for the license.

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PART D—MATTERS RELATED TO ALLIES AND OTHER NATIONS

SEC. 1041. SENSE OF CONGRESS REGARDING UNITED STATES TROOPS IN EUROPE.

It is the sense of Congress that—

(1) the United States has a strong interest in continuing and strengthening the North Atlantic Treaty Organization (NATO) to preserve world peace and security and to aid in the transition to a Europe that is whole and free;

(2) the United States should work with its NATO allies to adapt NATO to better respond to the changing world situation, which includes—

(A) the dissolution of the Warsaw Pact as a military and political alliance;

(B) the reduction in the threat of attack on western Europe posed by the Soviet Union;

(C) the reduction in the amount of financial resources that the United States is able to devote to defense spending; and

(D) the improved ability of other member nations of NATO to carry a greater share of the common NATO defense burden;

(3) barring unforeseen developments which result in a substantial increase in the threat to the national security of the United States, the Armed Forces should plan for an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of NATO that should not exceed approximately 100,000 members by the end of fiscal year 1995; and

(4) a principal function of the members so assigned should be to facilitate the rapid and large-scale reception of reinforcing United States troops in the event of a military necessity.

SEC. 1042.[13] REDUCTION IN AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE. * * *

SEC. 1043. STRATEGIC FRAMEWORK AND DISTRIBUTION OF RESPONSIBILITIES FOR THE SECURITY OF ASIA AND THE PACIFIC.

(a) FINDINGS.—Congress makes the following findings:

(1) The alliance between the United States and its allies in East Asia contributes greatly to the security of that region.

[13] Sec. 1042 amended sec. 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

(2) It is in the national interest of the United States to maintain a forward military and naval presence in East Asia.

(3) The pace of economic, political, and social advances in many of the East Asian countries, particularly Japan and South Korea, continues to accelerate.

(4) As a result of such advances the capacity of those countries to contribute to the responsibilities for their own defense has increased dramatically.

(5) While the level of defense burdensharing by Japan and South Korea has increased, continued acceleration of the rate of transfer of that burden is desirable.

(6) The United States remains committed to the security of its friends and allies in Asia and the Pacific Rim region.

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

(1) the United States should regularly review the missions, force structure, and locations of its military forces in Asia and the Pacific, including Hawaii;

(2) the United States should also regularly review its basing structure in the Pacific and Asia, with special attention to developments in the Philippines, Japan, and South Korea, and determine basing, forward deployments, maritime and land base prepositioning, amphibious forces, and strategic lift to meet evolving strategic needs;

(3) the United States should regularly review the threats and potential threats to regional peace, the United States, and its friends and allies;

(4) the United States should continue to assess the feasibility and desirability of the ongoing partial, gradual reduction of military forces in Asia and the Pacific;

(5) in view of the advances referred to in subsection (a)(3), Japan and South Korea should continue to assume increased responsibility for their own security and the security of the region;

(6) Japan and South Korea should continue to offset the direct costs incurred by the United States in deploying military forces for the defense of those countries including costs related to the presence of United States military forces in those countries; and

(7) Japan should continue to contribute to improvements to global stability by contributing to countries in regions of importance to world stability through the Official Development Assistance Program of Japan.

(c) REPORT REQUIRED.—Not later than April 1, 1992, the President shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs[14] of the House of Representatives a report on the strategic posture and military force structure of the United States in Asia and the Pacific, including the forces in Hawaii. The President shall include in such report a strategic plan relating to the continued United States presence in that region.

[14] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(d) CONTENT OF REPORT.—The report required by subsection (c) shall specifically include the following matters:

(1) An assessment of the trends in the regional military balance involving potential threats to the United States and its allies and friends in Asia and the Pacific, with special attention to—

(A) the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in Asia and the Pacific; and

(B) regional conflicts, such as the struggle in Cambodia.

(2) An assessment of the trends in acquiring and deploying nuclear, biological, and chemical weapons and long range missiles and other delivery systems and other destabilizing transfers of arms and technology.

(3) An assessment of the extent to which a requirement continues to exist for a regional security role for the United States in East Asia.

(4) An identification of any changes—

(A) in the missions, force structure, and locations of United States military forces in Asia and the Pacific that could strengthen the capabilities of such forces and lower the costs of maintaining such forces; and

(B) in contingency and reserve armed forces in the United States and other areas.

(5) A review of the United States basing structure in the Pacific and Asia with special attention to developments in the Philippines, Japan, and South Korea, including a review of the implications for basing, forward deployments, maritime, and land base prepositioning, amphibious forces, and strategic lift to meet evolving strategic needs.

(6) A discussion of the strategic implications of the departure of United States forces from Clark Air Force Base and of the remaining facilities in the Philippines.

(7) A discussion of the need for expanding the United States access to facilities in Singapore and other states in East Asia that are friendly to the United States.

(8) A discussion of the recent trends in the contributions to burdensharing and the common defense being made by the friends and allies of the United States in Asia and the ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the friends and allies of the United States in Asia and the Pacific.

(9) An assessment of the feasibility of relocating United States military personnel and facilities in Japan and South Korea to reduce friction between such personnel and the people of those countries.

(10) A discussion of any changes in bilateral command arrangements that would facilitate a transfer of military missions and command to allies of the United States in East Asia.

(11) A discussion of the changes in—

(A) the flow of arms and military technology between the United States and its friends and allies;

(B) the balance of trade in arms and technology; and

(C) the dependence and interdependence between the United States and its friends and allies in military technology.

SEC. 1044. UNITED STATES TROOPS IN KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States plans to reduce its troop presence in the Republic of Korea to 36,500 personnel by the end of 1992.

(2) The Department of Defense has not announced specific plans for further personnel reductions below that level.

(3) The National Unification Board of South Korea estimates the gross national product (GNP) of North Korea to have been $21,000,000,000 in 1989, while the Bank of Korea estimates that the size of the Republic of Korea's economy in that year was $210,000,000,000, a factor of 10 larger. At its current growth rate, as estimated by the Economic Planning Board of the Republic of Korea, the annual expansion of the economy of the Republic of Korea is nearly equivalent in size to the entire North Korean economy.

(4) The Republic of Korea continues to face a substantial military threat from North Korea that requires a vigorous response on both military and diplomatic levels.

(5) The Republic of Korea has decided to increase its level of host nation support, although such support still falls short of the actual cost involved and short of the relative level provided by the Government of Japan.

(6) While recognizing that the Republic of Korea has consistently increased its defense budget in real terms by an average of about 6 percent annually for the past five years, to a current level of 4.2 percent of gross national product, the Republic of Korea devotes a smaller share of its economy to defense than does the United States, at 4.9 percent of gross national product.

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

(1) the Republic of Korea remains an important ally of the United States, with the two countries sharing important political, economic, and security interests;

(2) commensurate with the security situation on the Korean peninsula and the size and vitality of the economy of the Republic of Korea—

(A) the Department of Defense should consider whether future reductions of United States military forces from the Republic of Korea beyond those now planned to be completed by the end of 1992 can be made in a way that does not undermine the credibility or effectiveness of those forces against an attack by North Korea; and

(B) the Republic of Korea should undertake greater efforts to meet its security requirements, particularly in the area of force modernization; and

(3) the Government of the Republic of Korea should increase the level of host nation support it provides to United States forces in the area so that its relative level more closely approximates that of Japan.

(c) PRESIDENTIAL REPORT.—(1) The President shall transmit to Congress, either separately or as part of another relevant report, a report on the overall security situation on the Korean peninsula, the implications of relevant political and economic developments in the area for the security situation there, and United States policy for the area.

(2) Issues covered in the report shall include—

(A) a qualitative and quantitative assessment of the military balance on the Korean peninsula;

(B) a description of the material requirements of the armed forces of the Republic of Korea;

(C) a description of United States military personnel requirements;

(D) a description of the state of United States-Republic of Korea relations, the state of China-Republic of Korea relations, and the state of Soviet-Republic of Korea relations; and

(E) a description of prospects for change in North Korea.

(3) The report shall be transmitted not later than June 30, 1992, and shall be transmitted in both classified and unclassified form.

SEC. 1045.[15] BURDENSHARING CONTRIBUTIONS BY JAPAN, KUWAIT, AND THE REPUBLIC OF KOREA.* * * [Redesignated to 10 USC 2350j—1993]

SEC. 1046.[16] DEFENSE COST-SHARING.

(a) DEFENSE COST-SHARING AGREEMENTS.—(1) The President shall consult with the foreign nations described in paragraph (2) to seek to achieve, within 12 months after the date of the enactment of this Act, an agreement on equitable defense cost-sharing with each such nation.

(2) The foreign nations referred to in paragraph (1) are—

(A) each member nation of the North Atlantic Treaty Organization (other than the United States); and

(B) every other foreign nation with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in the nation or the placement of combat equipment of the United States in the nation.

(3) Each defense cost-sharing agreement entered into under paragraph (1) should provide that the foreign nation agrees to share equitably with the United States, through cash compensation or in-kind contributions, or a combination thereof, the costs to the United States that arise solely from the implementation of the provisions of the bilateral or multilateral defense agreement with that nation.

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to those foreign nations that receive assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) relating to the foreign military financing program or under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) relating to the Economic Support Fund.

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[15] The revised text of sec. 1045 was incorporated into 10 USC at section 2350j by sec. 1402(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1825).

[16] 22 U.S.C. 1928 note.

(c) CONSULTATIONS.—In conducting the consultations required under subsection (a), the President should make maximum feasible use of the Department of Defense and the post of Ambassador-at-Large created by section 8125(c) of the Department of Defense Appropriations Act, 1989 (10 U.S.C. 113 note).

(d) ALLIES MUTUAL DEFENSE PAYMENTS ACCOUNT.—The Secretary of Defense shall maintain an accounting for defense cost-sharing under each agreement entered into with a foreign nation pursuant to subsection (a). The accounting shall show for each foreign nation the amount and nature of the—

(1) cost-sharing contributions agreed to by the nation;

(2) cost-sharing contributions delivered by the nation;

(3) additional contributions by the nation to any commonly funded multilateral programs providing for United States participation in the common defense;

(4) contributions by the United States to any such commonly funded multilateral programs;

(5) contributions of all other nations to any such commonly funded multilateral programs; and

(6) costs to the United States that arise solely from the implementation of the provisions of the bilateral or multilateral defense agreement with the nation.

(e) REPORTING REQUIREMENTS.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928 note) information, in classified and unclassified form—

(1) describing the efforts undertaken and the progress made by the President in carrying out subsections (a) and (c) during the period covered by the report;

(2) specifying the accounting of defense cost-sharing contributions maintained under subsection (d) during that period; [17]

(3) assessing how equitably foreign nations not described in subsection (a) or excepted under subsection (b) are sharing the costs and burdens of implementing defense agreements with the United States and how those defense agreements serve the national security interests of the United States; and [17]

(4) [17] specifying the incremental costs to the United States associated with the permanent stationing ashore of United States forces in foreign nations.

(f) [18] INCREMENTAL COSTS DEFINED.—In this section, the term "incremental costs", with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States.

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[17] Sec. 1412(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829) struck out "and" at the end of par. (2); struck out a period at the end of par. (3), inserting in lieu thereof "; and", and added a new par. (4).

[18] Sec. 1313(e) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2895) added subsec. (f).

SEC. 1047.[19] USE OF CONTRIBUTIONS OF FRIENDLY FOREIGN COUNTRIES AND NATO FOR COOPERATIVE DEFENSE PROJECTS. * * *

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SEC. 1049.[20] EXTENSION OF AUTHORITY FOR TRANSFER OF EXCESS DEFENSE ARTICLES TO CERTAIN COUNTRIES. * * *

SEC. 1050.[21] AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH COOPERATIVE AGREEMENTS ON AIR DEFENSE IN ITALY.

(a) AUTHORITY TO CARRY OUT AGREEMENTS.—The Secretary of Defense is authorized to carry out the Italian air defense agreements. In carrying out those agreements, the Secretary—

(1) may provide without monetary charge to the Republic of Italy articles and services as specified in the agreements; and

(2) may accept from the Republic of Italy (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) ADMINISTRATION OF AGREEMENTS.—In connection with the administration of the Italian air defense agreements, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A));

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units or components thereof to the Republic of Italy contemplated in the agreements; and

(3) use, to the extent contemplated in the agreements, the North Atlantic Treaty Organization (NATO) Maintenance and Supply Agency—

(A) for the supply of logistic support in Europe for the Patriot missile system; and

(B) for the acquisition of such logistic support, to the extent that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate.

(c) AUTHORITY SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The authority of the Secretary of Defense to enter into contracts under the Italian air defense agreements is available only to the extent that appropriated funds are otherwise available for that purpose.

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[19] Sec. 1047(a) added a new 10 U.S.C. 2350i—Foreign Contributions for Cooperative Projects.

[20] Sec. 1049(a) amended the authority of sec. 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j). For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[21] Sec. 8119 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1466), provided the following:

"SEC. 8119. The Secretary of Defense is authorized to use, for foreign military sales otherwise authorized under Chapter 39, title 22, United States Code, or for transfer to United States Army, Army National Guard, or Army Reserves, articles and services procured for the implementation of the Italian air defense agreements: *Provided*, That the term 'Italian air defense agreements' has the meaning given such term in section 1050 of Public Law 102–190 (105 Stat. 1469): *Provided further*, That upon notification of the Government of the United States by the Government of Italy of its desire to withdraw from the Italian air defense agreement or 180 days from the enactment of this Act [enacted November 11, 1993], section 1050 of Public Law 102–190 (105 Stat. 1469) is repealed.".

(d) DEFINITION.—For the purposes of this section, the term "Italian air defense agreements" means—

(1) the agreement entitled "Memorandum of Understanding Between the Secretary of Defense of the United States of America and the Minister of Defense of the Italian Republic on Cooperative Measures for Enhancing Air Defense in Italy", signed on March 24, 1988; and

(2) the agreement entitled "Implementing Agreement to the Memorandum of Understanding Between the Secretary of Defense of the United States of America and the Minister of Defense of the Italian Republic on Cooperative Measures for Enhancing Air Defense in Italy", signed on April 20, 1990.

SEC. 1051.[22] EXTENSION OF AWACS AUTHORITY. * * *

SEC. 1052. TRAINING OF SPECIAL OPERATIONS FORCES WITH FRIENDLY FOREIGN FORCES.

(a)[23] AUTHORITY TO PAY TRAINING EXPENSES.— * * *

(b)[24] BUDGETING FOR TRAINING.— * * *

SEC. 1053.[25] EXPANSION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN FOREIGN COMPARATIVE TESTING PROGRAM. * * *

SEC. 1054. LIMITATION ON EMPLOYMENT OF FOREIGN NATIONALS AT MILITARY INSTALLATIONS OUTSIDE THE UNITED STATES.

(a) AUTHORIZATION.—The number of employment positions on the last day of fiscal years 1992 and 1993 at United States military installations located outside the United States that may be filled by foreign nationals who are employed pursuant to an indirect-hire civilian personnel agreement and are paid by the United States may not exceed the following:

(1) For fiscal year 1992, 60,000.

(2) For fiscal year 1993, 47,750.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement of subsection (a) for a fiscal year if the Secretary determines that the national security interests of the United States require waiver of such requirement. The Secretary shall notify Congress of any use of this waiver authority and the reasons for the waiver.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, beginning with fiscal year 1994, the President should achieve reductions (below fiscal year 1993 levels) in the cost to the United States of salaries and other remuneration of foreign nationals employed at United States military installations located outside the United States through agreements under which the host countries assume a greater share of these costs.

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[22] Sec. 1051 amended 10 U.S.C. 2350e.

[23] Sec. 1052(a) added a new 10 U.S.C. 2011—Special Operations Forces: Training With Friendly Foreign Forces.

[24] Sec. 1052(b) amended 10 U.S.C. 166.

[25] Sec. 1053 amended 10 U.S.C. 2350a(g).

PART F—CONGRESSIONAL FINDINGS, POLICIES, AND COMMENDATIONS

SEC. 1071. SENSE OF CONGRESS RELATING TO THE CONTRIBUTIONS TO OPERATION DESERT STORM MADE BY THE DEFENSE-RELATED INDUSTRIES OF THE UNITED STATES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and its coalition allies achieved a great victory in Operation Desert Storm, carried out in the Persian Gulf region in the winter of 1991.

(2) The outstanding success of Operation Desert Storm was due in great measure to the ready availability of weapons and weapon systems exhibiting remarkable accuracy through advanced technological design.

(3) These weapons and weapon systems were designed and produced by the defense-related industries of the United States.

(4) The battle plan for Operation Desert Storm formulated by the commander of the United States Central Command relied on the availability and performance of these weapons and weapon systems.

(5) The successful use of these weapons and weapon systems in accordance with that plan resulted in astonishingly small numbers of killed and wounded among the Armed Forces of the United States and of allied coalition forces in general.

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

(1) that the defense-related industries of the United States, and the men and women who work in those industries, deserve the gratitude and appreciation of the Congress and of the United States for the design and production of the technologically-advanced weapons and weapon systems that helped to ensure victory in Operation Desert Storm;

(2) that future decisions relating to the national security of the United States must take into account the need to maintain strong defense-related industries in the United States; and

(3) that it is vitally important to the United States that the defense-related industries of the United States be capable of responding to the national security requirements of the United States.

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SEC. 1074. SENSE OF CONGRESS RELATING TO THE CHEMICAL DECONTAMINATION TRAINING FACILITY, FORT MCCLELLAN, ALABAMA.

(a) FINDINGS.—Congress makes the following findings:

(1) The possibility of use of chemical weapons by Iraqi forces was the most significant military threat confronted by members of the Armed Forces of the United States who served in the Persian Gulf region in connection with Operation Desert Storm.

(2) There continues to be extreme concern with respect to the ever more rapid proliferation of chemical weapons and agents, especially among nations in the Middle East.

(3) This proliferation makes it increasingly necessary that members of the Armed Forces have the capability of self-defense against chemical weapons and agents.

(4) Combat training with live chemical agents directly promotes this capability by reducing the life-threatening fear and self doubt that some soldiers experience on a battlefield contaminated by chemical weapons or agents.

(5) Such training further promotes this capability by enhancing the professional credibility of the members of the Armed Forces who train others with respect to chemical weapons and agents.

(6) The Chemical Decontamination Training Facility (CDTF) located at Fort McClellan, Alabama, is the only facility for conducting combat training with live chemical agents in the Western Hemisphere.

(7) The operations of the Chemical Decontamination Training Facility depend upon the support activities of the Army Chemical School which is also located at Fort McClellan, Alabama.

(8) The Defense Base Closure and Realignment Commission has reported that the closure or diminished operation of the Chemical Decontamination Training Facility could have an adverse impact on the capability of the Armed Forces to defend against the use of chemical weapons and agents and, thus, on the national security of the United States.

(9) The capability of members of the Armed Forces to defend against chemical weapons and agents depends upon maintaining a fully operating facility for conducting combat training with live chemical agents located in the Western Hemisphere including maintaining associated support activities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the necessity for the Armed Forces to have an effective live chemical agent training facility requires that the Chemical Decontamination Training Facility and the Army Chemical School be continued in operation at Fort McClellan, Alabama, unless a new facility for conducting combat training with live chemical agents is constructed.

SEC. 1075. POLICY REGARDING CONTRACTING WITH FOREIGN FIRMS THAT PARTICIPATE IN THE SECONDARY ARAB BOYCOTT.

(a) RESTATEMENT OF POLICY REGARDING TRADE BOYCOTTS.—As stated in section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b) SENSE OF CONGRESS.—Consistent with the policy referred to in subsection (a), it is the sense of Congress that—

(1) no Department of Defense prime contract should be awarded to a foreign person unless that person certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel; and

(2) the Secretary of Defense should consider developing a procurement policy to implement the policy expressed in paragraph (1).

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PART G—MISCELLANEOUS MATTERS

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SEC. 1082.[26] DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.

(a) PUBLIC AVAILABILITY OF INFORMATION.—(1) Except as provided in subsection (b), the Secretary of Defense shall, with respect to any information referred to in paragraph (2), place the information in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

(2)[27] Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.

(B) For purposes of this section, a Vietnam-era POW/MIA is any member of the Armed Forces or civilian employee of the United States who was at any time classified as a prisoner of war or missing in action during the Vietnam era and whose person or remains have not been returned to United States control.

(b) EXCEPTIONS.—(1) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if—

(A) the record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of that section; or

(B) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (j) or (k) of that section.

(2) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if the record or other information specifically mentions a person by name unless—

(A) in the case of a person who is alive (and not incapacitated) and whose whereabouts are known, that person expressly consents in writing to the disclosure of the record or other information; or

(B) in the case of a person who is dead or incapacitated or whose whereabouts are unknown, a family member or family

[26] 50 U.S.C. 401 note. Originally enacted with a catchline that read "Disclosure of Information Concerning United States Personnel Classified As Prisoner of War or Missing in Action During Vietnam Conflict"; restated by sec. 1036(4) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2842).

[27] Sec. 1036(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2841) amended and restated para. (2). It previously referred only to Vietnam-era POW/MIA.

members of that person determined by the Secretary of Defense to be appropriate for such purpose expressly consent in writing to the disclosure of the record or other information.

(3)(A) The limitation on disclosure in paragraph (2) does not apply in the case of a person who is dead or incapacitated or whose whereabouts are unknown if the family member or members of that person determined pursuant to subparagraph (B) of that paragraph cannot be located by the Secretary of Defense—[28]

(i) in the case of a person missing from the Vietnam era, after a reasonable effort; and

(ii) in the case of a person missing from the Korean Conflict or Cold War, after a period of 90 days from the date on which any record or other information referred to in paragraph (2) is received by the Department of Defense for disclosure review from the Archivist of the United States, the Library of Congress, or the Joint United States-Russian Commission on POW/MIAs.

(B) Paragraph (2) does not apply to the access of an adult member of the family of a person to any record or information to the extent that the record or other information relates to that person.

(C) The authority of a person to consent to disclosure of a record or other information for the purposes of paragraph (2) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by that paragraph to consent to the disclosure.

(c) DEADLINES.—(1) In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than January 2, 1996.[29] Such records or other information shall be made available as soon as a review carried out for the purposes of subsection (b) is completed.

(2) Whenever[30] a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

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[28] Sec. 1085(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 457) struck out "cannot be located after a reasonable effort." and inserted in lieu thereof "cannot be located by the Secretary of Defense—" and clauses (i) and (ii).

[29] Sec. 1036(2)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2841) struck out "In the case of records or other information that are required by subsection (a) to be made available to the public and that are in the custody of the Department of Defense on the date of the enactment of this Act, the Secretary shall make such records and other information available to the public pursuant to this section not later than three years after that date." and inserted in lieu thereof "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995." Sec. 1085(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 457) subsequently extended this date to January 2, 1996.

[30] Sec. 1036(2)(B) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2841) struck out "after March 1, 1992," after "Whenever".

(3) If the Secretary of Defense determines that the disclosure of any record or other information referred to in subsection (a) by the date required by paragraph (1) or (2) may compromise the safety of any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,[31] then the Secretary may withhold that record or other information from the disclosure otherwise required by this section. Whenever the Secretary makes a determination under the preceding sentence, the Secretary shall immediately notify the President and the Congress of that determination.

(d)[32] DEFINITIONS.—For purposes of this section:

(1) The terms "Korean conflict" and "Vietnam era" have the meanings given those terms in section 101 of title 38, United States Code.

(2) The term "Cold War" means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

(3) The term "official custodian" means—

(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense.

SEC. 1083.[33] FAMILY SUPPORT CENTER FOR FAMILIES OF PRISONERS OF WAR AND PERSONS MISSING IN ACTION.

(a) REQUEST FOR ESTABLISHMENT.—The President is authorized and requested to establish in the Department of Defense a family support center to provide information and assistance to members of the families of persons who at any time while members of the Armed Forces were classified as prisoners of war or missing in action in Southeast Asia and who have not been accounted for. Such a support center should be located in a facility in the National Capital region.

(b) DUTIES.—The center should be organized and provided with such personnel as necessary to permit the center to assist family members referred to in subsection (a) in contacting the departments and agencies of the Federal Government having jurisdiction over matters relating to such persons.

SEC. 1084.[34] * * * [Repealed—1998]

SEC. 1085.[35] EXTENSION OF OVERSEAS WORKLOAD PROGRAM. * * *

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[31] Sec. 1036(2)(C) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2842) struck out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserted in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,".

[32] Sec. 1036(3) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2842) amended and restated subsec. (d). It previously referred only to "Vietnam era".

[33] 10 U.S.C. 113 note.

[34] Formerly at 36 U.S.C. 189 note. See 36 U.S.C. 189a—Display of POW/MIA Flag—enacted as sec. 1082 of Public Law 105–85 (111 Stat. 1917). Subsec. (j) of that sec. repealed sec. 1084.

[35] Sec. 1085 extended the authority of sec. 1465(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1700). See 10 USC 2349.

SEC. 1088.[36] ADDITIONAL DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES. * * *

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SEC. 1095.[37] IRAQ AND THE REQUIREMENTS OF SECURITY COUNCIL RESOLUTION 687.

(a) FINDING.—The Congress finds that the Government of Iraq continues to violate United Nations Security Council Resolution 687, which required Iraq to submit within 15 days of its adoption on April 3, 1991, a declaration of the locations, amounts, and types of all weapons of mass destruction and to "unconditionally accept the destruction, removal or rendering harmless" of chemical weapons, biological weapons, and missiles with a range greater than 150 kilometers and the removal of nuclear weapons-usable material.

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

(1) Iraq's noncompliance with United Nations Security Council Resolution 687 constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region;

(2) the President should consult closely with the partners of the United States in the Desert Storm coalition and with the members of the United Nations Security Council in order to present a united front of opposition to Iraq's continuing noncompliance with Security Council Resolution 687; and

(3) the Congress supports the use of all necessary means to achieve the goals of Security Council Resolution 687 as being consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1).

SEC. 1096.[37] IRAQ AND THE REQUIREMENTS OF SECURITY COUNCIL RESOLUTION 688.

(a) FINDING.—The Congress finds that the Government of Iraq, through its ongoing suppression of the political opposition, including Kurds and Shias, continues to violate the Universal Declaration of Human Rights and United Nations Security Council Resolution 688 which demanded that Iraq "ensure that the human and political rights of all Iraqi citizens are respected".

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

(1) Iraq's noncompliance with United Nations Security Council Resolution 688 constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region;

(2) the President should consult closely with the partners of the United States in the Desert Storm coalition and with the members of the United Nations Security Council in order to present a united front of opposition to Iraq's continuing noncompliance with Security Council Resolution 688; and

(3) the Congress supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 688 consistent with all relevant United Nations Security Council Resolutions and the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1).

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[36] Sec. 1088(a) amended sec. 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1629). Subsec. (b) amended 10 U.S.C. 124.

[37] See other legislation concerning U.S. policy toward Iraq, beginning at page 5.

SEC. 1097.[38] ANNUAL REPORT ON THE PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS.

(a) REPORT REQUIRED.—(1) The President shall submit to the Committee on National Security and the Committee on International Relations[39] of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate an annual report on the transfer by any country of weapons, technology, or materials that can be used to deliver, manufacture, or weaponize nuclear, biological, or chemical weapons (hereinafter in this section referred to as "NBC weapons") to any country other than a country referred to in subsection (d) that is seeking to acquire such weapons, technology, or materials, or other system that the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The first such report shall be submitted not later than 90 days after the date of the enactment of this Act.

(b) MATTERS TO BE COVERED.—Each such report shall cover—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary has reason to believe could be used to manufacture NBC weapons.

(c) CONTENT OF REPORT.—Each such report shall include the following:

(1) The status of missile, aircraft, and other weapons delivery and weaponization programs in any such country, including efforts by such country to acquire MTCR equipment, NBC-capable aircraft, or any other weapon or major weapon component which is dedicated to the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Sec-

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[38] 22 U.S.C. 2751 note. Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

"**Sec. 2.** *Missile Proliferation Sanctions.* * * *

"(c) *Reporting Requirements.* The authority and duties vested in me to make certain reports to the Congress as provided in section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 are delegated to the Secretary of State.

"(d) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise prohibition authority delegated hereby.".

This Executive order superceded a memorandum of the President of June 25, 1991, delegating authority regarding missile technology proliferation (56 F.R. 31041; July 8, 1991).

[39] Sec. 1502(c)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) struck out "the Committees on Armed Services and Foreign Affairs" and inserted in lieu thereof "the Committee on National Security and the Committee on International Relations".

retary has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, manufacture, and deployment programs in any such country, including efforts to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after the date of the enactment of this Act, to any such country in the development of—

(A) missile systems, as defined in the MTCR or that the Secretary has reason to believe may be used to deliver NBC weapons;

(B) aircraft and other delivery systems and weapons that the Secretary has reason to believe could be used to deliver NBC weapons; and

(C) NBC weapons.

(4) A listing of those persons and countries which continue to provide such equipment or technology described in paragraph (3) to any country as of the date of submission of the report.

(5) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other agreements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other agreements.

(6) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other agreements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(7) A summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(b)(4)) and under section 73(d) of the Arms Export Control Act (22 U.S.C. 2797b(d)) .

(8) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(d) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, Denmark, Germany, France,[40] Greece, Iceland, Israel, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(e) CLASSIFICATION OF REPORT.—The President shall make every effort to submit all of the information required by this section in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified informa-

[40] Sec. 1504(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 514) struck out "the Federal Republic of Germany, France" and inserted in lieu thereof "France, Germany".

tion in an addendum and shall also submit concurrently a detailed summary, in unclassified form, of that classified information.

(f) DEFINITIONS.—For purposes of this section:

(1) The terms "missile", "MTCR", and "MTCR equipment or technology" have the meanings given those terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).[41]

(2) The term "weaponize" or "weaponization" means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(g) REPEAL OF SUPERSEDED LAW.—Section 1704 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1749; 22 U.S.C. 2797) is repealed.

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TITLE XII—SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR OPERATION DESERT STORM

SEC. 1201. EXTENSION OF SUPPLEMENTAL AUTHORIZATIONS.

(a) APPLICABILITY OF PUBLIC LAW 102–25 AUTHORIZATIONS TO FISCAL YEAR 1992.—Sections 101 and 102(c) of Public Law 102–25 (105 Stat. 78) are each amended by striking out "fiscal year 1991" each place it appears and inserting in lieu thereof "fiscal years 1991 and 1992".

(b) LIMITATION ON APPLICABILITY OF NOTICE-AND-WAIT REQUIREMENT.—The provisions of section 105 of Public Law 102–25 (105 Stat. 79) shall apply only to appropriations provided in Public Law 102–28 (105 Stat. 161).[42]

(c) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1992 AUTHORIZATIONS.—The amount of the transfer authority provided in section 1001 is increased by the amount of the transfers of funds made to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by subsection (a).

(d) TECHNICAL AMENDMENTS.— * * *

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SEC. 1203. DEFINITIONS.

(a) INCLUSION OF OPERATION PROVIDE COMFORT.—Section 3(1) of Public Law 102–25 (105 Stat. 77) is amended by striking out "Operation Desert Shield and Operation Desert Storm" and inserting in lieu thereof "Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort".

(b) INCREMENTAL COSTS ASSOCIATED WITH OPERATION DESERT STORM.—In this title, the term "incremental costs associated with Operation Desert Storm" has the meaning given such term in section 3(2) of Public Law 102–25 (105 Stat. 77).

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[41] For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[42] See text of Public Law 102–28 at 105 Stat. 161.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1992".

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TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1991, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program as authorized by section 2501, in the amount of $225,000,000.

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TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS IN CERTAIN CASES.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, XXV, and XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1994; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1995.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1994; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1995 for military construction projects, land acquisitions, family housing projects and facilities, or contributions to

the North Atlantic Treaty Organization Infrastructure program.

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TITLE XXVIII—GENERAL PROVISIONS

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PART D—PROHIBITION ON CERTAIN CONSTRUCTION

SEC. 2851. PROHIBITION ON CONSTRUCTION AT CROTONE, ITALY.

None of the funds available to the Department of Defense, including contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may be obligated in connection with relocating functions of the Department of Defense located at Torrejon Air Force Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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PART C—MISCELLANEOUS

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SEC. 3140. REPORT ON SCHEDULE FOR RESUMPTION OF NUCLEAR TESTING TALKS AND TEST BAN READINESS PROGRAM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States and the Soviet Union share a special responsibility to resume the Nuclear Testing Talks to continue negotiations toward additional limitations on nuclear weapons testing.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report containing a proposed schedule for resumption of the Nuclear Testing Talks and identifying the goals to be pursued in those talks.

(c) NUCLEAR TEST BAN READINESS PROGRAM.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $20,000,000 shall be available to conduct the nuclear test ban readiness program established pursuant to section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note).

SEC. 3141. WARHEAD DISMANTLEMENT AND MATERIAL DISPOSAL.

(a) FINDINGS.—The Congress makes the following findings:

(1) On September 27, 1991, the President announced as part of a unilateral initiative designed to "enhance stability and reduce the risk of nuclear war," that the United States should explore with the Soviet Union "joint technical cooperation on the safe and environmentally responsible storage, transportation, dismantling, and destruction of nuclear weapons".

(2) On October 5, 1991, the President of the Soviet Union stated in response that "We hereby stress readiness to embark on a specific dialogue with the United States on the elaboration of safe and ecologically responsible technologies for the storage and transportation of nuclear warheads and nuclear charges, and to design jointly measures to enhance nuclear safety".

(3) The President's initiative and the Soviet response hold out the prospect of enhancing stability and reducing the risk of nuclear war.

(b) CONGRESSIONAL ENDORSEMENT.—Congress strongly endorses the initiative proposed by the President and the Soviet response and looks forward—

(1) to hearing the proposed initiatives of the President during the congressional review of the President's proposed budget for fiscal year 1993; and

(2) to helping facilitate such initiatives through appropriate legislative measures which are requested by the President.

(c) WARHEAD DISMANTLEMENT.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $10,000,000 shall be available to conduct a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

SEC. 3142. REPORT ON NUCLEAR WEAPONS MATTERS.

(a) REPORT.—Not later than April 1, 1992, the President shall submit to the congressional defense committees a report containing the following:

(1) Information on the national security requirements of each of the following items, for the period beginning on September 30, 1991, and ending on September 30, 2001:

(A) The planned stockpile of nuclear weapons.

(B) The amount of tritium necessary to maintain the planned stockpile, including—

(i) the amount of tritium available from inventory;

(ii) the amount of tritium that must be produced and when; and

(iii) an assessment of the need for and duration of operation of the K-reactor, located at the Savannah River Site in South Carolina.

(C) The feasibility and desirability of use of W–76 warheads in place of W–88 warheads in the Trident II missiles carried by Trident Fleet Ballistic Missile submarines.

(D) The need for and duration of operation of the Rocky Flats Plant facilities (other than Building 559) located at Golden, Colorado, for the purposes of—

(i) production of W–88 warheads; and

(ii) plutonium operations other than warhead production.

(E) The earliest practicable date for the commencement of operation of facilities that replace the K-reactor and the Rocky Flats Plant, including an assessment of the effect of a delay (beyond the second quarter of fiscal year 1992) in

the selection of the site and the technology for the new production reactor.

(2) A plan for assistance to the workforce at Rocky Flats and the K-reactor, including retraining for new employment opportunities at the sites, that could be provided in the event that either facility ceases production.

(b) FORM OF REPORT.—The report required by subsection (a) shall be submitted in classified and unclassified form.

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TITLE XXXV—PANAMA CANAL COMMISSION [43]

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[43] See *Legislation on Foreign Relations Through 1997*, vol. II.

m. National Defense Authorization Act for Fiscal Year 1991

Partial text of Public Law 101–510 [H.R. 4739], 104 Stat. 1485, approved November 5, 1990; amended by Public Law 102–25 [Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991; S. 725], 105 Stat. 75, approved April 6, 1991; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993; H.R. 2100], 105 Stat. 1290, approved December 5, 1991; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–335 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Economic Adjustment, Diversification, Conversion, and Stabilization.

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

* * * * * * *

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1991 for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 747) in the amount of $382,600,000.

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PART F—NONSTRATEGIC AIR FORCE PROGRAMS

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SEC. 163. CHEMICAL-BIOLOGICAL COLLECTIVE PROTECTION SYSTEMS

(a) TERMINATION OF PROCUREMENT OF SURVIVABLE COLLECTIVE PROTECTION SYSTEM.—After the date of the enactment of this Act, no funds may be obligated for procurement of the Survivable Collective Protection System.

(b) LIMITATION ON PROCUREMENT OF TRANSPORTABLE COLLECTIVE PROTECTION SYSTEM.—None of the funds appropriated pursuant to this Act may be obligated for procurement of the Transportable Collective Protection System until the Secretary of Defense submits to the congressional defense committees a report setting forth—

(1) the overall requirements for the program;

(2) the rationale for the program in light of the chemical weapons arms control agreement between the United States and the Soviet Union and the efforts to achieve a multilateral ban on all chemical weapons;

(3) the anticipated distribution of assets to be procured under the program, shown by geographic region and by military forces; and

(4) total program costs.

(c) EXCEPTION FOR OPERATION DESERT SHIELD.—The limitation in subsection (b) shall not apply with respect to any procurement in connection with Operation Desert Shield.

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PART G—CHEMICAL MUNITIONS

SEC. 171.[2] ANNUAL REPORT ON SAFETY OF CHEMICAL WEAPONS STOCKPILE * * *

SEC. 172.[3] FUNDING CLARIFICATION FOR CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM * * *

SEC. 173.[4] CHEMICAL WEAPONS STOCKPILE SAFETY CONTINGENCY PLAN

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan setting forth the steps the Department of Defense would take if the chemical weapons stockpile of the United States began an accelerated rate of deterioration (or experienced any other event which called into question its continued safe storage) before a comprehensive full-scale chemical weapons disposal capability is developed. The plan shall address—

(1) the schedule that would have to be followed to put the plan into effect;

(2) the level of funding that would be required to put the plan into effect;

(3) the equipment and other resources that would be required to put the plan into effect; and

(4) an assessment of how quickly the plan could be placed into effect in the event of an emergency.

(b) UPDATES.—The Secretary shall periodically update the plan developed pursuant to subsection (a) as needed.

(c) SUBMISSION TO CONGRESS.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives[5] a copy of the plan developed pursuant to subsection (a). The submission shall be made not later than 180 days after the date of the enactment of this Act.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221.[6] STRATEGIC DEFENSE INITIATIVE PROGRAM STRUCTURE AND LIMITATIONS ON SPENDING

(a) PROGRAM ELEMENTS.—(1) The following program elements shall be the exclusive program elements for the Strategic Defense Initiative:

(A) Phase I Defenses.

(B) Limited Protection Systems.

(C) Theater and ATBM Defenses.

(D) Follow-On Systems.

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[2] Sec. 171 amended sec. 1412 of Public Law 99–145 (50 U.S.C. 1521), at subsecs. (a)(1), (g)(3), and (h)(1).

[3] Sec. 172 amended sec. 1412(c) of Public Law 99–145 (50 U.S.C. 1521).

[4] 50 U.S.C. 1511 note.

[5] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[6] 10 U.S.C. 2431 note.

(E) Research and Support Activities.

(2) The program elements in paragraph (1) shall be the only program elements used in the program and budget information concerning the Strategic Defense Initiative submitted to Congress by the Secretary of Defense in support of the budget submitted to Congress by the President under section 1105 of title 31, United States Code, for any fiscal year after fiscal year 1991.

(b) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OBJECTIVES.—

(1) PHASE I DEFENSES.—The Phase I Defenses program element shall include programs, projects, and activities which have as a primary objective the development of systems, components, and architectures for a strategic defense system capable of providing low to moderate defensive capabilities against a large-scale ballistic missile attack against the United States. Such activities may include those necessary to develop systems, components, and architectures capable of providing an early deployment option against limited attacks, including accidental, unauthorized, or deliberate launch of a small number of ballistic missiles.

(2) LIMITED PROTECTION SYSTEMS.—The Limited Protection Systems program element shall include programs, projects, and activities which have as a primary objective the development of systems and components which, if deployed as a limited defense, would not be in violation of the 1972 ABM Treaty. For purposes of planning, evaluation, design, and effectiveness studies, such programs, projects, and activities may take into consideration both the current numerical limitations of the 1972 ABM Treaty and modest changes to those numerical limitations.

(3) THEATER AND ATBM DEFENSES.—The Theater and ATBM Defenses program element shall include programs, projects, and activities which have as a primary objective—

(A) the development of deployable and rapidly relocatable anti-tactical ballistic missile (ATBM) defenses for forward deployed and expeditionary United States armed forces, and

(B) cooperation with friendly and allied nations in the development of theater defenses against tactical ballistic missiles.

(4) FOLLOW-ON SYSTEMS.—The Follow-On Systems program element shall include programs, projects, and activities which have as a primary objective the development of technologies capable of supporting systems, components, and architectures that could produce highly effective defenses for deployment after the beginning of the twenty-first century.

(5) RESEARCH AND SUPPORT ACTIVITIES.—The Research and Support Activities program element shall include programs, projects, and activities which have as a primary objective—

(A) the provision of basic research and technical, engineering, and managerial support to the programs, projects, and activities within the program elements in paragraphs (1) through (4);

(B) innovative science and technology projects;

(C) the provision of test and evaluation services; and

(D) program management.

(c) FUNDING LIMITATIONS.—(1) Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1991, not more than $2,890,000,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amount described in paragraph (1)—

(A) not more than $817,300,000 shall be available for programs, projects, and activities within the Phase I Defenses program element;

(B) not more than $389,000,000 shall be available for programs, projects, and activities within the Limited Protection Systems program element;

(C) not more than $180,000,000 shall be available for programs, projects, and activities within the Theater and ATBM Defenses program element;

(D) not more than $754,300,000 shall be available for programs, projects, and activities within the Follow-On Systems program element; and

(E) not more than $749,400,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

(3) Funds may be obligated for programs, projects, and activities which have as their primary purpose the support of the Brilliant Pebbles space-based interceptor system only through programs, projects, and activities within the Phase I Defenses program element.

(4) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1991. The report shall specify the amount of such funds allocated for each program, project, and activity of the Strategic Defense Initiative and shall list each program, project, and activity under the appropriate program element.

(5)(A) Before the submission of the report required under paragraph (4) and notwithstanding the limitations in paragraph (2), the Secretary of Defense may transfer funds among the program elements described in paragraph (2).

(B) The total amount that may be transferred to or from any program element described in paragraph (2)—

(i) may not exceed 10 percent of the amount provided in such paragraph for the program element from which the transfer is made; and

(ii) may not result in an increase of more than 10 percent of the amount provided in such paragraph for the program element to which the transfer is made.

(C) Amounts transferred pursuant to subparagraph (A) shall be merged with and be available for the same purposes as the amounts to which transferred.

(d) DEFINITION.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the

Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 222. LIMITATION ON DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991, or for any fiscal year before 1991, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any antiballistic missile system or component, except for development and testing consistent with the development and testing described in the May 1990 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the May 1990 SDIO Report.

(3) The limitations in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1991 if the transfer is made in accordance with section 1501 of this Act.

(b) DEFINITION.—As used in this section, the term "May 1990 SDIO Report" means the report entitled "1990 Report to Congress on the Strategic Defense Initiative", dated May 1990, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense on June 7, 1990, pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1398; 10 U.S.C. 2431 note).

SEC. 223. PROHIBITION ON OPERATIONAL TEST AND EVALUATION OF STRATEGIC DEFENSE SYSTEMS

(a) PROHIBITION.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991, or for any fiscal year before fiscal year 1991, may not be obligated for any operational test and evaluation activity in support of—

(1) a strategic defense system; or

(2) a program, project, or activity of the Strategic Defense Initiative.

(b) RULE OF CONSTRUCTION.—Notwithstanding subsection (a), the Strategic Defense Initiative Organization may engage in planning activities (including studies, design activities, and computer simulations) related to testing of Strategic Defense Initiative systems or elements.

SEC. 224. BOOST SURVEILLANCE AND TRACKING SYSTEM

(a) PROHIBITION ON FULL-SCALE DEVELOPMENT.—None of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for fiscal year 1991 for research, development, test, and evaluation may be obligated for full-

scale development of the Boost Surveillance and Tracking System (BSTS).

(b) TRANSFER OF BSTS SYSTEM TO AIR FORCE.—The Secretary of Defense shall transfer immediately responsibility for the direction, management, and funding for the development and procurement of the Boost Surveillance and Tracking System from the Strategic Defense Initiative Organization to the Secretary of the Air Force.

SEC. 225. THEATER MISSILE DEFENSE PROGRAMS

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

(1) The proliferation of ballistic missiles and chemical and nuclear weapons technology applicable to missile warhead development is potentially destabilizing, is a threat to United States forces, and poses a significant threat to the national security of friends and allies of the United States around the world.

(2) Of the funds authorized for the Strategic Defense Initiative (SDI) for fiscal year 1991, $198,000,000 should be made available for the development of anti-tactical ballistic missiles (ATBM) systems to counter such threats. In this regard, development of systems such as the Extended Range Interceptor and the Theater High Altitude Air Defense should be accelerated.

(3) The SDI organization should ensure that the Navy and Marine Corps are involved in developmental programs for future ATBM systems suitable for deployment with their projection and expeditionary forces.

(4) The Secretary of the Army should establish a vigorous program to develop and test a rapidly deployable ATBM capability for United States military forces with the near-term focus of that development and test effort on the Patriot II system.

(5) Congress endorses a continuing program of cooperative research and development, jointly funded by the United States and the government of Israel, on the Arrow Tactical Anti-Missile program with a view to proving out (through such cooperative research and development) the feasibility and practicality of the system.

(b) DIRECTION ON ATBM TECHNOLOGY PROGRAMS.—

(1) ARROW TACTICAL ANTI-MISSILE PROGRAM.—(A) Subject to subparagraph (B), the Secretary of Defense may obligate, from funds made available for fiscal year 1991 for the Strategic Defense Initiative, up to $42,000,000 for the purpose of initiating the Tactical Demonstration Program (constituting Phase II of research and development work on the Arrow program).

(B) Funds may not be obligated for the purpose described in subparagraph (A) until the United States and the government of Israel enter into a memorandum of agreement governing the conduct and funding of the Technical Demonstration Program.

(2) PATRIOT II ATBM DEVELOPMENT PROGRAM.—(A) The Secretary of the Army may obligate from funds made available for fiscal year 1991 for Research, Development, Test, and Evaluation for the Army up to $50,000,000 to conduct additional tests of the Patriot II system against existing types of ballistic mis-

sile threats. The authority under the preceding sentence is in addition to any other authority provided in this Act regarding the Patriot II system.

(B) From within the funds referred to in subparagraph (A), the Army may obligate part of such funds for the development of support systems (such as tracking and attack assessment radars) for existing and future ATBM systems.

PART D—STRATEGIC PROGRAMS

SEC. 231. FUNDING AND SENSE OF CONGRESS FOR ICBM MODERNIZATION PROGRAM

(a) PROGRAM FUNDING.—Of the amount appropriated for the Department of Defense for fiscal year 1991, not more than $687,671,000 shall be available for the intercontinental ballistic missile (ICBM) modernization program, of which not more than $680,208,000 shall be available for the rail garrison MX (RGMX) program and the small ICBM (SICBM) program.

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

(1) research and development of the RGMX and SICBM is a prudent and necessary hedge (A) against the robust Soviet strategic nuclear modernization program and, in particular, Soviet rail- and road-mobile ICBM programs, (B) against possible future threats to the invulnerability of the sea-based leg of the strategic Triad, and (C) to help ensure the continued stability of the strategic balance as the United States negotiates reductions in its strategic forces under the prospective Strategic Arms Reduction Talks (START) agreement and the planned follow-on negotiations for further reductions;

(2) the two-missile mobile ICBM modernization program has failed to achieve the political consensus necessary for deployment of both systems;

(3) as long as peaceful trends continue in the Soviet Union, the defense budget of the United States is likely to continue to decline in the future, making the deployment of both the RGMX system and the SICBM system unaffordable;

(4) at a minimum the United States should continue to develop the SICBM system for deployment in silos to meet future United States ICBM modernization requirements and arms control objectives, while preserving a realistic option for subsequent mobile basing should future strategic or arms control developments so require; and

(5) any funds obligated or expended for the RGMX system should be used only to conduct critical activities needed to complete research, development, test, and evaluation and maintain the key technologies for that system on a stand-by or "moth ball" status.

SEC. 232. DEPRESSED TRAJECTORY BALLISTIC MISSILES AND OTHER SHORT-TIME-OF-FLIGHT BALLISTIC MISSILES

Congress commends the President for proposing to the Soviet Union that the United States and the Soviet Union observe an interim mutual restraint on the flight testing of depressed trajectory and other short-time-of-flight ballistic missiles and expresses disappointment that the Soviet Union has not agreed to this proposal.

Congress urges the President to continue to pursue such interim restraint and to further explore the possibility of a permanent agreement banning flight tests of such missiles.

PART E—OTHER MATTERS

SEC. 241.[7] BIOLOGICAL DEFENSE RESEARCH PROGRAM * * *

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SEC. 248. ESTABLISHMENT OF DEPARTMENT OF DEFENSE TECHNOLOGY OFFICE IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall establish an office of the Department of Defense in Japan to investigate, evaluate, and facilitate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Department of Defense.

(b) DEADLINE.—The Secretary of Defense shall establish such office no later than September 30, 1991.

SEC. 249. GRANT FOR STUDY AND ANALYSIS OF THE SOVIET UNION AND CERTAIN OTHER COUNTRIES

Of the amounts authorized to be appropriated pursuant to section 201, $600,000 shall be available for making a grant to one or more qualified nonprofit organizations for the support of research and analyses by emigrants from the Soviet Union, the countries of Eastern Europe (including Albania), and Cuba regarding political, economic, social, and other developments in those countries.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

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SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(a)(17)[8] for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.

(2) Of the funds authorized to be appropriated for fiscal year 1991 pursuant to such section for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian nonCommunist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such section for fiscal year 1991 for humanitarian assistance, other than the funds described in subsection (a)(2), to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

[7] Sec. 241 added a new sec. 2370 to 10 U.S.C.
[8] Sec. 301(a)(17) authorized "For Humanitarian Assistance, $13,000,000.".

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such section for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.[9]

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PART C—CHANGES TO EXISTING LAW

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SEC. 330.[10] OPERATION OF THE INTER-AMERICAN AIR FORCES ACADEMY * * *

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PART D—ENVIRONMENTAL PROVISIONS

SEC. 341. ADDITIONAL REQUIREMENTS FOR ENVIRONMENTAL REPORT

Subsection (b) of section 2706 of title 10, United States Code, is amended to read as follows:

"(b) REPORT ON ENVIRONMENTAL COMPLIANCE.—(1) Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Defense shall submit to Congress a report containing the following:

"(A) A statement of the funding levels and full-time personnel required for the Department of Defense to comply with applicable environmental laws during the fiscal year for which the budget is submitted. The statement shall set forth separately the funding levels and personnel required for the Department of Defense as a whole and for each military installation.

"(B) A statement of the funding levels and full-time personnel requested for such purposes in the budget as submitted by the President, together with an explanation of any differences between the funding level and personnel requirements and the funding level and personnel requests in the budget. The state-

[9] Sec. 304(f)(5) of Public Law 102–190 (105 Stat. 1334) struck out subsec. (f).
[10] Sec. 330 added a new sec. 9415 to 10 U.S.C.

ment shall set forth separately the funding levels and full-time personnel requested for the Department of Defense as a whole and for each military installation.

"(C) A projection of the funding levels and full-time personnel that will be required over the next five fiscal years for the Department of Defense to comply with applicable environmental laws, set forth separately for the Department of Defense as a whole and for each military installation.

"(D) An analysis of the effect that compliance with such environmental laws may have on the operations and mission capabilities of the Department of Defense as a whole and of each military installation.

"(E) A statement of the funding levels requested in the budget for carrying out research, development, testing, and evaluation for environmental purposes or environmental activities of the Department of Defense. The statement shall set forth separately the funding levels requested for the Department of Defense as a whole and for each military department and Defense Agency.

"(F) A description of the number and duties of current full-time personnel, both civilian and military, who carry out environmental activities (including research) for the Department of Defense, including a description of the organizational structure of such personnel from the Secretary of Defense down to the military installation level.

"(2) In this subsection, the term 'military installation' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.".

SEC. 342. REPORTING REQUIREMENTS ON ENVIRONMENTAL COMPLIANCE AT OVERSEAS MILITARY INSTALLATIONS

(a) ADDITIONAL INFORMATION IN ENVIRONMENTAL BUDGET REPORT.—Paragraph (1) of section 2706(b) of title 10, United States Code, as amended by section 341, is amended by adding at the end the following new subparagraph:

"(G) A statement of the funding levels and personnel required for the Department of Defense to comply with applicable environmental requirements for military installations located outside the United States during the fiscal year for which the budget is submitted.".

(b) POLICIES AND REPORT ON OVERSEAS ENVIRONMENTAL COMPLIANCE.—(1) The Secretary of Defense shall develop a policy for determining applicable environmental requirements for military installations located outside the United States. In developing the policy, the Secretary shall ensure that the policy gives consideration to adequately protecting the health and safety of military and civilian personnel assigned to such installations.

(2) The Secretary of Defense shall develop a policy for determining the responsibilities of the Department of Defense with respect to cleaning up environmental contamination that may be present

at military installations located outside the United States. In developing the policy, the Secretary shall take into account applicable international agreements (such as Status of Forces agreements), multinational or joint use and operation of such installations, relative share of the collective defense burden, and negotiated accommodations.

(3) The Secretary of Defense shall develop a policy and strategy to ensure adequate oversight of compliance with applicable environmental requirements and responsibilities of the Department of Defense determined under the policies developed under paragraphs (1) and (2). In developing the policy, the Secretary shall consider using the Inspector General of the Department of Defense to ensure active and forceful oversight.

(4) At the same time the President submits to Congress his budget for fiscal year 1993 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report describing the policies developed under paragraphs (1), (2), and (3). The report also shall include a discussion of the role of the Inspector General of the Department of Defense in overseeing environmental compliance at military installations outside the United States.

(5) For purposes of this subsection, the term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located outside the United States and outside any territory, commonwealth, or possession of the United States.

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PART E—MISCELLANEOUS

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SEC. 357. SENSE OF CONGRESS REGARDING THE TRANSFER TO EUROPE OF MILITARY EQUIPMENT THAT WOULD THEN BE DESTROYED OR REMOVED AS A RESULT OF AN ARMS CONTROL AGREEMENT

(a) FINDINGS.—Congress finds the following:

(1) The Secretary of Defense has announced commencement of substantial withdrawals of United States military personnel from Europe in anticipation of concluding an agreement that will reduce conventional forces in Europe and in recognition of the reduced threat in Europe.

(2) The anticipated arms control agreement on conventional forces in Europe will require destruction or demilitarization of certain military equipment in excess of limits specified in the agreement.

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

(1) funds appropriated for the Department of Defense should not be used to transfer to Europe any military equipment that would have to be destroyed as a result of the anticipated arms control agreement on conventional forces in Europe; and

(2) the Department of Defense should make every effort to avoid transferring to Europe any military equipment that would, after only a short period of time in Europe, have to be

returned to the United States as a result of further withdrawals of United States military personnel from Europe.

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PART F—STUDIES AND REPORTS

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SEC. 364. REPORT ON THE TRANSPORTATION OF CHEMICAL WEAPONS FROM THE FEDERAL REPUBLIC OF GERMANY TO JOHNSTON ISLAND

(a) REPORT REQUIRED.—The Secretary of the Army shall prepare a report analyzing the safety aspects of the project to remove and transport chemical weapons stored in the Federal Republic of Germany to Johnston Island, with special emphasis on measures undertaken to ensure safety during the actual transportation of the weapons.

(b) USE OF REPORT.—The report required by subsection (a) shall be used as part of each Phase I site specific environmental impact statement study of chemical weapons storage sites in the United States (including the Aberdeen Proving Ground, Maryland, and the Lexington-Blue Grass Army Depot, Kentucky) that is initiated on or after the date of the enactment of this Act. These Phase I studies are being used to assist in determining the validity of the programmatic on-site disposal decisions that have been made for those sites. Information from the report shall be incorporated in any Phase I assessment of transportation alternatives for those sites.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to Congress not later than 60 days after the date the transportation project referred to in that subsection is completed.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

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SEC. 406.[11] REDUCTION IN THE AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE * * *

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—ACQUISITION MANAGEMENT IMPROVEMENT

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SEC. 801.[12] AUTHORITY GOVERNING OPERATION OF WORKING-CAPITAL FUNDED ACTIVITIES * * *

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[11] Sec. 406 amended sec. 1002 of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), and repealed sec. 911 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1523).

[12] Sec. 801 amended 10 USC 2208(i); redesignated as 10 USC 4543.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

PART A—GENERAL MANAGEMENT MATTERS

SEC. 901.[13] NATIONAL MILITARY STRATEGY REPORTS

(a) REPORTS BY THE SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall submit to Congress a national military strategy report during each of fiscal years 1992, 1993, and 1994. Each such report shall be submitted with the Secretary's annual report to Congress for that year under section 113(j) of title 10, United States Code.

(b) MATTERS TO BE COVERED IN REPORTS.—Each such report shall cover a period of at least ten years and shall address the following:

(1) The threats facing the United States and its allies.

(2) The degree to which military forces can contribute to the achievement of national objectives.

(3) The strategic military plan for applying those forces to the achievement of national objectives.

(4) The risk to the national security of the United States and its allies that ensues.

(5) The organization and structure of military forces to implement the strategy.

(6) The broad mission areas for various components of the forces and the broad support requirements to implement the strategy.

(7) The functions for which each military department should organize, train, and equip forces for the combatant commands responsible for implementing the strategy.

(8) The priorities assigned to major weapons and equipment acquisitions and to research and development programs in order to fill the needs and eliminate deficiencies of the combatant commands.

(c) RELATIONSHIP OF PLANS TO BUDGET.—The strategic military plans and other matters covered by each report shall be fiscally constrained and shall relate to the current Department of Defense Multiyear Defense Plan and resource levels projected by the Secretary of Defense to be available over the period covered by the report.

(d) EFFECTS OF ALTERNATIVE BUDGET LEVELS.—Each such report shall also include an assessment of the effect on the risk and the other components of subsection (b) in the event that (1) an additional $50,000,000,000 is available in budget authority in the fiscal year which is addressed by the budget request that the report accompanies, and (2) budget authority for that fiscal year is reduced by $50,000,000,000. For these assessments the Secretary of Defense shall make appropriate assumptions about the funds available for the remainder of the period covered by the report.

(e) ROLE OF CHAIRMAN OF JOINT CHIEFS OF STAFF.—In accordance with his role as principal military adviser to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall participate

[13] 10 U.S.C. 113 note.

fully in the development of each such report. The Secretary of Defense shall provide the Chairman such additional guidance as is necessary to enable the Chairman to develop and recommend fiscally constrained strategic plans for the Secretary's consideration in accordance with section 153(a)(2) of title 10, United States Code. In accordance with additional responsibilities of the Chairman set out in section 153, the Chairman shall provide recommendations to the Secretary on the other components of paragraph (2).

(f) CLASSIFICATION OF REPORTS.—The reports submitted to Congress under subsection (a) shall be submitted in both classified and (to the extent practicable) unclassified versions.

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SEC. 909. STUDY AND PLAN REGARDING MOBILITY REQUIREMENTS

(a) STUDY AND PLAN REQUIRED.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall conduct a study to determine mobility requirements for the Armed Forces and shall develop an integrated plan to meet those requirements.

(b) REPORTS REQUIRED.—(1) The Secretary shall submit to the congressional defense committees two reports regarding the study required by subsection (a).

(2) The first report shall cover intertheater requirements, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than March 29, 1991.

(3) The second report shall cover intratheater requirements, surface requirements, and requirements for mobility within the continental United States, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than June 28, 1991.

(c) FORMAT AND CONTENT OF REPORTS.—(1) Each report shall be in the same format as the report submitted to Congress under section 203(b) of the Department of Defense Authorization Act, 1981 (Public Law 96–342; 94 Stat. 1080), and shall cover (in addition to the matters specified in paragraphs (2) and (3)) the same matters required under such section and the Joint Explanatory Statement of the Committee of Conference relating to such Act, as set out in Senate Report 96–895, 96th Congress, second session.

(2) The two reports together shall include an analysis of the total mix of airlift, sealift, amphibious lift, surface transportation, and prepositioned war material (both at sea and on land) necessary for the United States to respond to contingent threats against the national security interests of the United States during the remainder of the current decade and beyond. The analysis of prepositioned war material should identify where such material should be located. The analysis may not be limited to consideration of a single requirement for lift and material based upon the most demanding case, but shall include an assessment of a range of requirements for lift and material based upon various military contingencies and scenarios. The Operation Just Cause and Operation Desert Shield deployments shall be included among the scenarios examined. The analysis shall also include—

(A) an assessment of both intratheater and intertheater lift requirements; and

(B) an assessment of the total requirements for mobility, including support equipment and the equipment necessary for strategic mobility at unimproved ports, airfields, and other facilities.

(3) The two reports together shall also include the following:

(A) An assessment of how the total mix of mobility and prepositioning requirements has been affected by changing circumstances in Europe and elsewhere, including—

(i) an increase in the opportunities to detect any planned attack by the Soviet Union;

(ii) an increase in the time likely to be available to prepare for such an attack after detection;

(iii) a reduced level of Soviet threat to the national security interests of the United States;

(iv) the decreasing level of Armed Forces personnel deployed overseas;

(v) the changing threat in Northeast Asia; and

(vi) the changing threat in Southwest Asia.

(B) An assessment of how such requirements are being affected by the changing need for power projection capability in low-intensity and medium-intensity conflicts.

(C) An assessment of how such requirements would be affected by the loss of United States military bases, and the loss of access to other military bases, in such overseas locations as the Philippines.

(D) An assessment of how the reduced reliance expected to be placed by the Armed Forces on NATO and other allied shipping and military bases for employment of the Armed Forces unilaterally in contingent actions affects the requirements for airlift, sealift, amphibious lift, and prepositioned war material.

(E) An assessment of whether increased dependence should be placed upon sealift capabilities in view of the factors assessed pursuant to subparagraphs (A) through (D) and the potential benefits of sealift vessels which might be developed that would be faster than the sealift vessels currently available from commercial sources.

(F) A discussion of initiatives that can be undertaken to reduce the time required to move forces and material from home bases to combat areas, including measures that can be undertaken to reduce (i) the time necessary for loading and unloading personnel and equipment at airports and seaports, (ii) the time necessary for moving ground forces to airports and seaports, and (iii) the delivery times from points of debarkation to final destinations.

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TITLE X—DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1001. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES FUNDING

Funds authorized to be appropriated pursuant to section 301(a)(14) for drug interdiction and counter-drug activities of the

Department of Defense shall be available for the purposes and in the amounts specified as follows:

(1) For operation and maintenance, $585,600,000.

(2) For procurement, $345,300,000.

(3) For National Guard pay and allowances, $105,500,000.

(4) For research, development, test, and evaluation, $47,700,000.

SEC. 1002. OVER-THE-HORIZON RADAR

(a) STUDY.—(1) The Secretary of Defense, acting through the Joint Electronics Warfare Center, shall conduct a study to examine the need for an over-the-horizon radar in the central part of the United States directed toward Mexico.

(2) In carrying out such study, the Secretary shall assess—

(A) the capability of the over-the-horizon radar against small targets, including single engine aircraft of the type used in drug trafficking;

(B) the ability of the over-the-horizon radar to correlate such targets with existing civilian air traffic; and

(C) the relative cost and operational effectiveness of an over-the-horizon radar compared with continued investment in other types of radars, such as the Small Aerostat System, land based aerostats, and the Caribbean based radar system.

(3) The Secretary shall submit the results of the study required by paragraph (1) to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

(4) Of the amount made available for procurement under section 1001(2), $3,000,000 shall be available to carry out the study required by paragraph (1).

(b) TESTBED FACILITY.—Of the amount made available for procurement under section 1001(2) for the over-the-horizon radar, $6,000,000 shall be used for the procurement of a commercial testbed facility for the over-the-horizon radar to serve as an interim facility until the study required by subsection (a) is completed and the need for an over-the-horizon radar for drug interdiction is determined.

(c) LIMITATION ON OTHER SPENDING.—The balance of other funds made available for procurement under section 1001(2) for the over-the-horizon radar may not be obligated until 30 days after—

(1) the Secretary of Defense certifies to Congress, after conclusion of the study required by subsection (a), that such a system is needed, meets the requirements of the drug interdiction program, and would be the most cost effective system when compared with the cost of additional investment in other radar systems or other intelligence programs; and

(2) in the event the Over-The-Horizon Backscatter radar (OTH–B) is determined to be the most suitable over-the-horizon radar system, the Office of Test and Evaluation certifies to Congress that the East Coast System of the OTH–B meets all contract requirements and performance specifications contained in the Test and Evaluation Master Plan and the Operation Test Plan for that system.

SEC. 1003. CIVIL AIR PATROL

Of the amount made available for operation and maintenance under section 1001(1), $1,000,000 shall be available to the Secretary of Defense for the purpose of paying expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

SEC. 1004.[14] ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

(a) SUPPORT TO OTHER AGENCIES.—During fiscal years 1991 through 1999,[15] the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT.—The purposes for which the Secretary may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in subparagraph (A) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

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[14] 10 U.S.C. 374 note. Sec. 1121(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1753) provided the following:

"(c) FUNDING OF SUPPORT ACTIVITIES.—Of the amount authorized to be appropriated for fiscal year 1994 under section 301(15) for operation and maintenance with respect to drug interdiction and counter-drug activities, $40,000,000 shall be available to the Secretary of Defense for the purposes of carrying out section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note).".

[15] Sec. 1011(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2836) struck out "through 1995" and inserted in lieu thereof "through 1999".

Previously, sec. 1088(a)(1) of Public Law 102–190 (105 Stat. 1484) struck out "During fiscal year 1991" and inserted in lieu thereof "During fiscal years 1991, 1992, and 1993,". Subsequently, sec. 1041(a) of Public Law 102–484 (106 Stat. 2491) extended the authority through FY 1994. Sec. 1121(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1754) extended the authority through FY 1995.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

(4) The establishment (including unspecified minor construction) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities within or outside the United States.

(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6)[16] The detection, monitoring, and communication of the movement of—

(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9)[17] The provision of linguist and intelligence analysis services.

(10)[18] Aerial and ground reconnaissance.

(c)[19] LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

(d)[19] CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(e)[19] LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the

[16] Sec. 1041(b)(1) of Public Law 102–484 (106 Stat. 2491) struck out "(6) Aerial and ground reconnaissance outside, at, or near the borders of the United States."; and inserted a new par. (6).

[17] Sec. 1041(b)(2) of Public Law 102–484 (106 Stat. 2491) added a new par. (9).

[18] Sec. 1121(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1753) added a new par. (10).

[19] Sec. 1041(c) of Public Law 102–484 (106 Stat. 2491) redesignated subsecs. (c) through (g) as (d) through (h), and inserted a new subsec. (c).

short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f)[19] CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(g)[19] RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e),[20] section 376 of title 10, United States Code.

(h)[21] * * * [Repealed—1992]

SEC. 1005. TRANSFER OF EXCESS DEFENSE ARTICLES

Pursuant to sections 372 and 2576a[22] of title 10, United States Code, the Secretary of Defense shall review the availability of equipment resulting from the withdrawal of United States forces from Europe and Asia for the purpose of identifying excess equipment that may be suitable for drug enforcement activities for transfer to appropriate Federal, State, or local civilian law enforcement authorities.

SEC. 1006. SENSE OF CONGRESS REGARDING THE EFFECTIVE USE OF COUNTER-DRUG FUNDS

It is the sense of Congress that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff should continue to emphasize the commitment of the Department of Defense to its extremely important mission of combating illegal drugs so that the entire chain of command of the Department of Defense fully and effectively uses funds of the Department to ensure the maximum contribution of the Armed Forces to the national counter-drug effort.

SEC. 1007. REPORT ON DEFENSE SPENDING FOR COUNTER-DRUG ACTIVITIES

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees, the Senate Caucus on International Narcotics Control, and the Select Committee on Narcotics Abuse and Control of the House of Rep-

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[20] Sec. 1041(c)(2) of Public Law 102–484 (106 Stat. 2491) struck out "subsection (d)" and inserted in lieu thereof "subsection (e)".

[21] Sec. 1041(d)(1) of Public Law 102–484 (106 Stat. 2491) struck out subsec. (h), relating to the availability of funds. Par. (2) of that sec. provided the following:

"(2) Of the amount authorized to be appropriated for fiscal year 1993 under section 301(14) for operation and maintenance with respect to drug interdiction and counter-drug activities, $40,000,000 shall be available to the Secretary of Defense for the purposes of carrying out section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note).".

[22] Sec. 1033(b)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2640) struck out "section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372" and inserted in lieu thereof "sections 372 and 2576a".

resentatives a report examining the counter-drug budget and expenditures of the Department of Defense.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of the funds authorized and appropriated in fiscal years 1989 and 1990 for the counter-drug activities of the Department of Defense, including—

(A) an examination of how those funds were obligated and expended, including a month-by-month breakdown of obligations and expenditures;

(B) a determination of whether there were delays in obligating and expending those funds and the reasons for any such delays; and

(C) an accounting of the amount of funds available for counter-drug activities that lapsed at the end of each of the fiscal years.

(2) A determination of whether there has been a systemic failure in the timely obligation and expenditure of funds appropriated for the counter-drug activities of the Department of Defense for fiscal years 1989 and 1990.

(3) An analysis of the effectiveness of the role of the Department of Defense Coordinator for Drug Enforcement Policy and Support, including—

(A) a determination whether the responsibility of serving as both the Assistant Secretary of Defense for Reserve Affairs and Coordinator for Drug Enforcement Policy and Support complicates the ability of the Assistant Secretary to coordinate all entities within the Department of Defense in the counter-drug mission; and

(B) a determination regarding the adequacy of personnel levels in the Office of the Assistant Secretary to meet his responsibility for coordinating counter-drug activities within the Department of Defense and ensuring that funds appropriated for such activities are obligated and expended in a timely manner.

(4) Recommendations for correcting any problems found in the course of the review.

SEC. 1008. STUDY OF UTILITY OF OH–58D HELICOPTER IN DETECTION OF CROSS-BORDER INTRUSIONS BY DRUG SMUGGLERS

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the feasibility and effectiveness of using the OH–58D Scout helicopters for detecting, monitoring, and conducting surveillance of the ground movements of drug smugglers along the southwest border of the United States. In carrying out such study, the Secretary shall consider in particular the following matters:

(1) The suitability of the OH–58D helicopter for performing the missions described in the first sentence.

(2) The feasibility of having personnel of the Army National Guard operate and maintain OH–58D helicopters when such personnel are not in Federal service.

(b) INTERAGENCY COORDINATION.—The Secretary shall carry out the study required by subsection (a) in consultation with the Commissioner of the United States Customs Service.

(c) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives[23] a report containing the results of the study required by subsection (a) not more than 180 days after the date of the enactment of this Act. The Secretary shall include in the report the conclusions of the Secretary based on the study together with such comments and recommendation as the Secretary considers appropriate.

SEC. 1009. ANDEAN ANTI-DRUG EFFORTS

(a) FINDINGS.—Congress makes the following findings:

(1) The support for democratic process and civilian governance in the Andean countries of Peru, Bolivia, and Colombia, the first two of which have only recently emerged from periods of military rule, is a necessary precondition for long-term stability in those countries and for the successful fight against the production and traffic of illegal drugs in those countries.

(2) The separation of military and civilian law enforcement functions has historically been a critical element in democracies around the world, including the United States.

(3) There is a need to determine whether the current policies of the United States unduly emphasize assistance to military entities of those countries rather than civilian law enforcement entities in carrying out anti-drug efforts in those countries and whether such policies might tend to undermine the dual long-term policy goals of the United States of stopping the traffic of drugs at their sources and the preservation of civilian control over the newly established democracies of the Andean countries.

(4) There is a need to assess the impact that United States assistance in the Andean anti-drug effort will have on reducing drug activity and supporting democratic processes in the Andean countries.

(b) REPORT REQUIRED.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Defense shall, in consultation with the Director of the Office of National Drug Control Policy, jointly submit to Congress a report detailing current United States policies with respect to the Andean countries in general and with respect to the counter-drug enforcement activities and associated training programs of the United States in such countries in particular.

(2) Such report shall include an analysis of the impact that the involvement of the military forces of the Andean countries in counter-drug enforcement activities has on the democratic institutions of those countries and how the civilian institutions of those countries might be strengthened in order to assure the successful pursuit of a counter-drug strategy.

(3) Such report shall contain specific legislative recommendations for improving the assistance activities of the United States in the Andean countries in order to avoid unnecessary duplications and

[23] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

contradictions in meeting United States policy goals in those countries.

SEC. 1010. CREATION OF A MULTILATERAL COUNTER-DRUG STRIKE FORCE

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has in the past sought approval for a multilateral strike force dedicated to the war on drugs.

(2) The proposal by the Prime Minister of Jamaica for the creation of a multilateral, international counter-drug strike force is the first operative proposal for the use of a multilateral force against the drug cartels in Latin America by a government leader in the Western Hemisphere and should be given serious consideration.

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

(1) the Prime Minister of Jamaica is to be commended for his proposal;

(2) the President should call for international negotiations for the purpose of discussing the establishment of an international strike force to counter international drug traffickers; and

(3) the United States should work through the United Nations and other multilateral organizations to determine the feasibility of establishing and using a force and should assist in the establishment of such a force if the President determines the proposal to be feasible.

SEC. 1011.[24] COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER * * *

TITLE XI—OPERATION DESERT SHIELD[25]

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TITLE XIV—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

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SEC. 1405.[26] CONTROLS ON THE AVAILABILITY OF APPROPRIATION ACCOUNTS

(a)[27] PROCEDURES FOR CLOSING APPROPRIATION ACCOUNTS.—(1) Subchapter IV of chapter 15 of title 31, United States Code, (other than section 1558), is amended to read as follows: * * *

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[24] Sec. 1011 added a new sec. 1003A to title I of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501 et seq.).

[25] Title XI authorized appropriations and transfers made by Public Law 101–403 for Operation Desert Shield, and addressed military personnel and procurement matters arising from Operation Desert Shield. See legislation relating to Iraq beginning at page 5.

[26] The President determined "* * * it to be in furtherance of the purposes of the [Foreign Assistance] Act [of 1961] that the functions authorized by the Act be performed without regard to section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), and amendments contained therein.".

Furthermore, "[t]his determination shall apply only to funds appropriated to carry out the provisions of the Act that were appropriated for fiscal year 1984 and for prior fiscal years, and shall suspend the application of the provisions of section 1405 of the National Defense Authorization Act for Fiscal Year 1991, and amendments contained therein, through September 30, 1992." (Presidential Determination 91–21 of February 27, 1991; 56 F.R. 10771).

[27] See 31 USC 1551–1557, relating to DOD accounts.

(b)[28] TRANSITION.—* * *

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PART C—GUARD AND RESERVE INITIATIVE

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SEC. 1432. FINDINGS AND SENSE OF CONGRESS REGARDING THE IMPORTANCE OF THE READY RESERVE

(a) FINDINGS.—The Congress finds that—

(1) as a result of the recent dramatic changes in Eastern Europe and the Soviet Union, the active military forces of the United States will be significantly reduced; and

(2) as a consequence of that reduction it will be necessary to rely increasingly, in the event of a threat to the national security, on the immediate availability of trained personnel of the Ready Reserve of the reserve components of the Armed Forces.

(b) SENSE OF CONGRESS.—In light of the finding in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense should take appropriate action to ensure that members of the Ready Reserve are made fully aware of their continuing obligation for immediate service in the active military forces in the event of a war or national emergency;

(2) the Secretary should use the annual muster provided for under section 687 of title 10, United States Code, as a means of alerting such personnel to that obligation; and

(3) the Secretary should ensure that adequate funds are made available, out of funds appropriated for the reserve components, to carry out the annual muster of such personnel.

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SEC. 1434. SENSE OF CONGRESS CONCERNING UNITED STATES ARMORED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) Dramatic political and military changes have occurred recently in Eastern Europe.

(2) The Warsaw Pact is no longer a credible military threat to the North Atlantic Treaty Organization (NATO).

(3) It appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced as the result of arms control agreements or unilateral actions.

(4) There is a continued need for armor forces and many countries possess large inventories of modern tanks.

(5) The Soviet Union will still produce 1,400 new tanks in 1990.

(6) With significantly increased warning times of enemy attack, greater reliance will be placed on United States reserve component forces for armored heavy force reinforcement missions.

(7) There is a need to enhance the capabilities of armored forces of the reserve components to assume increased responsibilities for armored heavy force reinforcement missions.

[28] 31 U.S.C. 1551 note.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of the Congress that—

(1) the Army should take timely and necessary steps to enhance the capabilities of armored forces of the reserve components;

(2) the United States Army Armor Center should continue as the center for training, education, doctrine, and combat development for the armored forces of the United States, both active and reserve; and

(3) the United States Army Armor Center should ensure that the armored forces of the reserve components are adequately prepared to accept the increased role in armored heavy force reinforcement missions that will be assigned to them.

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PART D—ARMS CONTROL MATTERS [29]

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PART E—MATTERS RELATING TO ALLIES AND OTHER NATIONS

SEC. 1451.[30] RECIPROCAL LOGISTICAL SUPPORT * * *

SEC. 1452.[31] DEPARTMENT OF DEFENSE OMBUDSMAN FOR FOREIGN SIGNATORIES OF INTER-GOVERNMENTAL MEMORANDUMS OF AGREEMENT CONCERNING ACQUISITION MATTERS * * *

SEC. 1453.[32] EXPANSION OF SCOPE OF REQUIREMENTS RELATING TO DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS * * *

SEC. 1454. COOPERATION WITH JAPAN ON TECHNOLOGICAL RESEARCH AND DEVELOPMENT

(a) FINDINGS.—Congress makes the following findings:

(1) Japan has developed highly sophisticated research and manufacturing capabilities.

(2) Those capabilities have produced technologies that can be usefully applied to the development and manufacture of both commercial products and defense equipment.

(3) The availability of those technologies to the United States would greatly enhance the development and manufacture of defense equipment for the Armed Forces of the United States.

(4) Since the exchange of notes between the United States and Japan on the transfer of Japanese military technologies in 1983, the level and quality of technological cooperation between the two countries have been unsatisfactory.

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[29] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

[30] Sec. 1451(a) amended sec. 2342(a) of title 10, United States Code, relating to cross-servicing agreements. Subsec. (b) added a new sec. 2350g to 10 U.S.C., relating to mutual defense agreements and occupational arrangements. Subsec. (c) made conforming amendments to earlier Defense appropriations.

[31] Sec. 1452 added a new 10 U.S.C. 2350h, relating to memorandums of agreement and DOD ombudsman for foreign signatories.

[32] Sec. 1453 amended sec. 2504(a) of title 10, U.S.C., redesignated as 10 U.S.C. 2531.

(5) Effective cooperation in technology research and development between the United States and Japan would enhance the security of both countries.

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

(1) the United States and Japan should strengthen their cooperation with regard to technology that would contribute to the security of both countries;

(2) technological cooperation between the two countries should be based upon an equitable and mutual sharing of the costs and benefits of that cooperation; and

(3) the Secretary of Defense should improve the staffing, funding, and organization of those activities within the Department of Defense responsible for implementing and overseeing technological cooperation with Japan.

(c) COOPERATION ON RESEARCH AND DEVELOPMENT.—In light of the expressions in subsections (a) and (b), Congress urges and requests the President and directs the Secretary of Defense to pursue vigorously opportunities for the United States and Japan to cooperate in the development of technologies that benefit the security of both countries, particularly those technologies that have both commercial and military applications, commonly referred to as "dual-use" technologies.

(d) COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.—(1) Subject to paragraphs (2) and (3), of the funds authorized to be appropriated pursuant to section 201 for basic research, exploratory development, and advanced technology, $10,000,000 shall be available for research and development projects conducted jointly by the United States and Japan, pursuant to a memorandum of understanding or other formal agreement, for the purpose of—

(A) developing new conventional defense equipment; or

(B) modifying existing defense equipment to meet United States defense requirements.

(2)(A) Funds made available for research and development projects under paragraph (1) may be obligated and expended for a particular research project only if the Secretary of Defense determines that—

(i) the particular project will improve, through the application of emerging technology, the conventional defense capabilities of the United States and Japan; and

(ii) the applicable memorandum of understanding or other formal agreement provides for the sharing of costs on an equitable basis.

(B) The Secretary may delegate the performance of the responsibility to make determinations under subparagraph (A) only to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(3) None of the funds made available for research and development projects under paragraph (1) may be used for research and development under the Strategic Defense Initiative.

(e) STAFFING.—The Secretary of Defense is urged to increase the number of personnel assigned to the Office of the Deputy Under Secretary of Defense (International Programs) for the specific purpose of providing oversight of the joint research and development

projects of the United States and Japan for which funds are made available under subsection (d).

SEC. 1455.[33] PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN AND CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN

(a)[34] PURPOSE.—It is the purpose of this section to require Japan to offset the direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of United States military personnel in Japan.

(b) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—Funds appropriated pursuant to an authorization contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(c) SENSE OF CONGRESS ON ALLIED BURDEN SHARING.—(1) Congress recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq.

(2) It is the sense of Congress that—

(A) all countries that share the benefits of international security and stability should, commensurate with their national capabilities, share in the responsibility for maintaining that security and stability; and

(B) given the economic capability of Japan to contribute to international security and stability, Japan should make contributions commensurate with that capability.

(d) NEGOTIATIONS.—At the earliest possible date after the date of the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs

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[33] 10 U.S.C. 113 note.

[34] Sec. 8105 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1902), provided the following:

"SEC. 8105. CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN.—

"(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

"(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

"(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

"(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

"(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs Congress of the waiver and the reasons for the waiver.

"(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.".

(other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of all United States military personnel stationed in Japan.

(e) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) This section may be waived by the President if the President—

(A) declares an emergency or determines that such a waiver is required by the national security interests of the United States; and

(B) immediately informs the Congress of the waiver and the reasons for the waiver.

SEC. 1456. LIMITATION ON THE COSTS TO THE UNITED STATES FOR PAYMENTS TO FOREIGN NATIONALS EMPLOYED AT BASES OUTSIDE THE UNITED STATES

(a) LIMITATION.—The costs incurred by the United States during fiscal year 1991 for the payment of salaries and other remuneration to foreign nationals who are employed at United States military installations located outside the United States shall be reduced by the Secretary of Defense at a rate necessary to achieve a 25 percent reduction in such costs by the end of fiscal year 1991 below the amount that was requested for such costs in the budget for fiscal year 1991 submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) WAIVER AUTHORITY AND REQUIREMENT OF NOTIFICATION.—The Secretary of Defense may waive the requirement of subsection (a) if the Secretary determines that the national security interests of the United States require such action. If the requirement of subsection (a) is waived, the Secretary shall notify Congress of that action and include in that notification the reasons for such waiver.

SEC. 1457.[35] ANNUAL REPORT ON UNITED STATES SECURITY ARRANGEMENTS AND COMMITMENTS WITH OTHER NATIONS

(a) REPORT REQUIREMENTS.—The President shall submit to the congressional committees specified in subsection (d) each year[36] a report (in both classified and unclassified form) on United States security arrangements with, and commitments to, other nations.

(b) MATTERS TO BE INCLUDED.—The President shall include in each such report the following:

(1) A description of—

(A) each security arrangement with, or commitment to, other nations, whether based upon (i) a formal document (including a mutual defense treaty, a pre-positioning arrangement or agreement, or an access agreement), or (ii) an expressed policy; and

(B) the historical origins of each such arrangement or commitment.

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[35] 50 U.S.C. 404c.

[36] Sec. 1504(c)(4)(C)(i) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) struck out "shall submit to the Committees on Armed Services and on Foreign Affairs of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate each year" and inserted in lieu thereof "shall submit to the congressional committees specified in subsection (d) each year".

(2) An evaluation of the ability of the United States to meet its commitments based on the projected reductions in the defense structure of the United States.

(3) A plan for meeting each of those commitments with the force structure projected for the future.

(4) An assessment of the need to continue, modify, or discontinue each of those arrangements and commitments in view of the changing international security situation.

(c) DEADLINE FOR REPORT.—The President[37] shall submit the report required by subsection (a) not later than February 1 of each year.

(d)[38] SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

(1) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

(2) The Committee on National Security, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1458.[39] ECONOMIC SANCTIONS AGAINST THE REPUBLIC OF IRAQ

If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited—

(A) the importation of products of Iraq into its customs territory, and

(B) the export of its products to Iraq; or

(2) given assurances satisfactory to the President that such import and export sanctions will be promptly implemented.

SEC. 1459. HUMANITARIAN ASSISTANCE FOR LITHUANIA

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide appropriate forms of humanitarian assistance for Lithuania. Such assistance is necessary as a result of the courageous efforts of the Lithuanian people to rebuild an independent society and state.

(b) AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development should—

(1) furnish such humanitarian assistance through the International Committee of the Red Cross, the Lithuanian Red Cross, CARITAS, and other voluntary relief agencies;

(2) solicit private sector donations of humanitarian assistance for Lithuania;

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[37] Sec. 1504(c)(4)(C)(ii) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) struck out "(1) Except as provided in paragraph (2), the President" and inserted in lieu thereof "The President"; and struck out para. (2), relating to the due date of the 1991 report.

[38] Sec. 1504(c)(4)(C)(iii) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) added subsec. (d).

[39] 50 U.S.C. 1701 note.

(3) cooperate with private relief agencies attempting to provide humanitarian assistance to Lithuania; and

(4) make all necessary arrangements to ensure that Lithuanians begin to receive critical humanitarian assistance as soon as possible.

(c) HUMANITARIAN ASSISTANCE FOR LATVIA, ESTONIA, ETC.—Where possible, appropriate humanitarian assistance should also be extended to Latvia and Estonia as well as needy republics of the Soviet Union.

(d) DEFINITION.—As used in this section, the term "humanitarian assistance" includes—

(1) medical supplies;

(2) oil, gas, and fuel for emergency vehicles and medical facilities;

(3) water purification supplies, materials for immunization, and other materials needed to prevent the outbreak of contagious diseases and to safeguard public health;

(4) food and clothing; and

(5) transportation of private donations of humanitarian assistance.

PART F—MISCELLANEOUS MATTERS

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SEC. 1465.[40] OVERSEAS WORKLOAD PROGRAM * * * [Repealed—1993]

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SEC. 1469. ANNUAL PRESENTATION FOR CONGRESSIONAL DEFENSE LEADERSHIP ON UNITED STATES NATIONAL MILITARY STRATEGY

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide for an annual presentation to be given to the congressional defense leaders named in subsection (b) on the national military strategy of the United States. That presentation should particularly cover the theater and strategic nuclear components of the national military strategy and should include a discussion of (1) nuclear targeting policy and requirements, and (2) the implications of such nuclear targeting policy and requirements for (A) theater and strategic nuclear force structure and operations, and (B) defense resources and their allocation.

(b) DEFINITION.—The congressional defense leaders referred to in subsection (a) are—

(1) the chairmen and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives;[41] and

(2) the chairmen and ranking minority members of the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.

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[40] Formerly at 10 U.S.C. 2341 note. Repealed by sec. 1431(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1833). See 10 U.S.C. 2349.

[41] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

PART G—CONGRESSIONAL FINDINGS, POLICIES, AND COMMENDATIONS

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SEC. 1472. COMMENDATION OF UNITED STATES MILITARY PERSONNEL FOR PHILIPPINE EARTHQUAKE RELIEF EFFORT

(a) FINDINGS.—Congress makes the following findings:

(1) The members of the United States Air Force, Marine Corps, and Navy serving in the Pacific region have given substantial and significant assistance to the Government and people of the Republic of the Philippines following a severe earthquake on July 16, 1990, in the Philippines which resulted in the deaths of over 1,600 people and severe dislocation and devastation.

(2) United States military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20, 1990.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations, to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from the Subic Bay naval facility have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by personnel of Clark Air Force Base and other Pacific Air Force bases and 120 units of blood were donated by personnel of the Subic Bay Naval Facility.

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

(1) that the earthquake relief assistance provided by United States military forces has played an essential role in the Philippine recovery from the July 16, 1990, earthquake; and

(2) that those members of the United States Armed Forces and their dependents who have assisted in Philippine earthquake relief should be commended by Congress for their considerable efforts on behalf of the Philippine people in their recovery efforts.

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TITLE XVII—MISSILE TECHNOLOGY CONTROLS

Sec. 1701. Policy.
Sec. 1702. Amendment to the Export Administration Act of 1979.
Sec. 1703. Amendment to the Arms Export Control Act of 1979.
Sec. 1704. Report on missile proliferation.[42]

SEC. 1701.[43] POLICY

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

(4) with respect to the Missile Technology Control Regime ("MTCR") and its participating governments—

(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

(B) to increase the number of countries that adhere to the MTCR; and

(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.

SEC. 1702.[44] AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979 * * *

SEC. 1703.[45] AMENDMENT TO THE ARMS EXPORT CONTROL ACT * * *

SEC. 1704.[46] * * * [Repealed—1991]

TITLE XVIII—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM[47]

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[42] Sec. 1704 was superseded by sec. 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1489), and repealed by sec. 1097(g) of that Act.

[43] 50 U.S.C. app. 2402 note.

[44] For text of amendment to sec. 6 and the addition of new sec. 11B of the Export Administration Act of 1979, see *Legislation on Foreign Relations Through 1997*, vol. III, sec. J.

[45] Sec. 1703 added chapter 7, secs. 71–74 to the Arms Export Control Act. For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[46] Sec. 1704 was superseded by sec. 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1489), and repealed by sec. 1097(g) of that Act.

[47] For text of title XVIII, see *Legislation on Foreign Relations Through 1997*, vol. IV, sec. L.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1991".

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TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) IN GENERAL.—The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

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

(1) funds made available for the North Atlantic Treaty Organization Infrastructure program should be used primarily for—

(A) verifying or implementing the terms of conventional arms control agreements;

(B) recoupment owed by the United States for projects completed before the date of the enactment of this Act; and

(C) the completion of any construction project the construction of which began before October 1, 1990; and

(2) the United States should work in consultation with the other countries of the North Atlantic Treaty Organization to restructure such program in such a manner that the funds provided to the program by the Secretary of Defense will be expended primarily for the purposes referred to in paragraph (1).

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program as authorized by section 2501, in the amount of $192,700,000.

SEC. 2503. STUDY AND REPORT BY THE SECRETARY OF DEFENSE

(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense under other provisions of law.

(2) In carrying out such a study, the Secretary shall consider—

(A) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(B) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall transmit, by not later than March 15, 1991, to the Committees on Armed Services of the Sen-

ate and House of Representatives[48] a report containing the results of the study required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate.

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TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor) shall expire on October 1, 1993,[49] or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1994,[50] whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure program.

TITLE XXVIII—GENERAL PROVISIONS

PART A—CONSTRUCTION, LEASING, IMPROVEMENTS, DISPOSAL, AND UTILIZATION OF MILITARY INSTALLATIONS AND FACILITIES

SEC. 2801. DUAL BASING

(a) DEFINITION.—In this section—

(1) the term "dual basing" means the stationing of units of the Armed Forces on a permanent basis at military installations inside the United States with rotating short-term assignments to military installations outside the United States for purposes of training, carrying out exercises, meeting obligations to other nations, or carrying out other international security responsibilities of the United States; and

(2) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that dual basing has significant potential for being an effective and effi-

[48] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[49] Sec. 2702(a)(1) of Public Law 102–190 (105 Stat. 1535) struck out "October 1, 1992" and inserted in lieu thereof "October 1, 1993".

[50] Sec. 2702(a)(2) of Public Law 102–190 (105 Stat. 1535) struck out "fiscal year 1993," and inserted in lieu thereof "fiscal year 1994,".

cient method by which this Nation can reduce its defense spending and also meet its world-wide security responsibilities and assist in reducing tension and increasing stability internationally.

(c) REPORT.—The Secretary of Defense shall carry out a study of the manner in which dual basing could be implemented and shall transmit, by no later than March 15, 1991, to the Committees on Armed Services of the Senate and the House of Representatives[51] a report containing a detailed description of how dual basing could be implemented, together with an assessment of the scheduling, costs, benefits, and difficulties involved in such an implementation as compared to the methods of basing military personnel used by the military departments on the date of the enactment of this Act.

SEC. 2802. LIMITATION ON CONSTRUCTION AT CROTONE, ITALY

(a) IN GENERAL.—None of the funds available to the Department of Defense, including contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may be obligated or expended (whether obligated before the date of enactment of this Act or not) in connection with relocating functions of the Department of Defense located at Torrejon Air Force Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy, or any other location outside the United States until the Secretary of Defense makes the certification and files the information required in subsection (b)(2).

(b) CONSIDERATION AND CERTIFICATION.—(1) Promptly after the date of enactment of this Act, the President shall notify the other member nations of the North Atlantic Treaty Organization that the United States seeks to have placed on the agenda of the next meeting of the North Atlantic Council of NATO the following questions:

(A) In light of the changed threat to NATO, is the retention of the 401st Tactical Fighter Wing in the Southern Region of NATO necessary?

(B) In light of the changes in Europe, is continuation of construction of a new airbase at Crotone, Italy, desirable?

(C) Are there existing airbases in NATO, and particularly in the Southern Region of NATO, which could serve as an adequate base for the 401st Tactical Fighter Wing, rendering construction of a new base unnecessary?

(D) Will the United States be authorized to use American aircraft based at Crotone, Italy, for military missions outside of the European theatre?

(2) After the North Atlantic Council of NATO meets, considers the questions listed in paragraph (1), and passes a resolution endorsing continuation of construction of a new airbase at Crotone, Italy, the Secretary of Defense shall certify to the congressional defense committees that such has occurred and shall transmit, along with such certification, a copy of the resolution adopted by the North Atlantic Council and a summary of the debate concerning each of the questions contained in paragraph (1).

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[51] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

TITLE XXIX—DEFENSE BASE CLOSURES AND REALIGNMENTS

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PART B—OTHER PROVISIONS RELATING TO DEFENSE BASE CLOSURES AND REALIGNMENTS

SEC. 2921.[52] CLOSURE OF FOREIGN MILITARY INSTALLATIONS

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

(1) the termination of military operations by the United States at military installations outside the United States should be accomplished at the discretion of the Secretary of Defense at the earliest opportunity;

(2) in providing for such termination, the Secretary of Defense should take steps to ensure that the United States receives, through direct payment or otherwise, consideration equal to the fair market value of the improvements made by the United States at facilities that will be released to host countries;

(3) the Secretary of Defense, acting through the military component commands or the sub-unified commands to the combatant commands, should be the lead official in negotiations relating to determining and receiving such consideration; and

(4) the determination of the fair market value of such improvements released to host countries in whole or in part by the United States should be handled on a facility-by-facility basis.

(b) RESIDUAL VALUE.—(1) For each installation outside the United States at which military operations were being carried out by the United States on October 1, 1990, the Secretary of Defense shall transmit, by no later than June 1, 1991, an estimate of the fair market value, as of January 1, 1991, of the improvements made by the United States at facilities at each such installation.

(2) For purposes of this section:

(A) The term "fair market value of the improvements" means the value of improvements determined by the Secretary on the basis of their highest use.

(B) The term "improvements" includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(c) ESTABLISHMENT OF SPECIAL ACCOUNT.—(1) There is established on the books of the Treasury a special account to be known as the "Department of Defense Overseas Military Facility Investment Recovery Account". Except as provided in subsection (d),[53] amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the

[52] 10 U.S.C. 2687 note.

[53] Sec. 344(b)(2)(A) of Public Law 102–190 (105 Stat. 1345) struck out "Any" and inserted in lieu thereof "Except as provided in subsection (d),". Sec. 344(c) of that Act further provided:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to the transfer or disposal of any real property or facility pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act or the Defense Base Closure and Realignment Act of 1990 occurring on or after the date of the enactment of this Act.".

United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into such account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense[54] in connection with—

(A) facility maintenance and repair and environmental restoration at military installations in the United States; and

(B) facility maintenance and repair and compliance with applicable environmental laws at military installations outside the United States that the Secretary anticipates will be occupied by the Armed Forces for a long period.

(3)[54] Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.

(d)[55] AMOUNTS CORRESPONDING TO THE VALUE OF PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—(1) In the case of a payment referred to in subsection (c)(1) for the residual value of real property or improvements at an overseas military facility, the portion of the payment that is equal to the depreciated value of the investment made[56] with nonappropriated funds shall be deposited in the reserve account established under section 204(b)(7)(C)[57] of the Defense Authorization Amendments and Base Closure and Realignment Act. The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance by appropriation Acts) for the purpose of acquiring, constructing, or improving commissary stores and nonappropriated fund instrumentalities.

(2) As used in this subsection:

(A) The term "nonappropriated funds" means funds received from—

(i) the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code; or

(ii) a nonappropriated fund instrumentality.

(B) The term "nonappropriated fund instrumentality" means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office,

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[54] Sec. 2827(a)(1) of Public Law 102–484 (106 Stat. 2610) struck out "in connection with facility maintenance and repair and environmental restoration at military installations in the United States." and inserted text beginning with "in connection with—" through subpar. (B). Par. (2) of that subsection struck out a second sentence in this par. which read: "Funds in the Account shall remain available until expended.". Par. (3) of that subsection added a new par. (3) here.

[55] Sec. 344(b)(2)(B) of Public Law 102–190 (105 Stat. 1345) added subsec. (d). Sec. 344(c) of that Act further provided:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to the transfer or disposal of any real property or facility pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act or the Defense Base Closure and Realignment Act of 1990 occurring on or after the date of the enactment of this Act." [December 5, 1991].

[56] Sec. 2821(c) of Public Law 101–510 (106 Stat. 2608) struck out "the value of the improvements carried out" and inserted in lieu thereof "the depreciated value of the investment made".

[57] Sec. 1505(e)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 515) struck out "section 204(b)(4)(C)" and inserted in lieu thereof "section 204(b)(7)(C)".

and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

(e)[58] NEGOTIATIONS FOR PAYMENTS-IN-KIND.—(1)[59] Before the Secretary of Defense enters into negotiations with a host country regarding the acceptance by the United States of any payment-in-kind in connection with the release to the host country of improvements made by the United States at military installations in the host country, the Secretary shall submit to the appropriate congressional committees a written notice regarding the intended negotiations.[60]

(2)[61] The notice shall contain the following:

(A) A justification for entering into negotiations for payments-in-kind with the host country.

(B) The types of benefit options to be pursued by the Secretary in the negotiations.

(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.

(3) For purposes of this subsection, the appropriate congressional committees are—

(A) the Committee on Armed Services,[62] the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Subcommittee on Defense[63] of the Committee on Appropriations of the Senate.

(f)[64] * * * [Repealed—1996]

(f)[65] OMB REVIEW OF PROPOSED SETTLEMENTS.—(1)[66] The Secretary of Defense may not enter into an agreement of settlement with a host country regarding the release to the host country of im-

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[58] Sec. 2827(b) of Public Law 102–484 (106 Stat. 2610) added subsec. (e).

[59] Sec. 1305(c)(1)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2891) added para. designation "(1)".

[60] Sec. 1305(c)(1)(B) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2891) struck out "a written notice to the congressional defense committees containing a justification for entering into negotiations for payments-in-kind with the host country and the types of benefit options to be pursued by the Secretary in the negotiations.", and inserted in lieu thereof "to the appropriate congressional committees a written notice regarding the intended negotiations.".

[61] Sec. 1305(c)(1)(C) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2891) added paras. (2) and (3).

[62] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[63] Sec. 1073(d)(4)(C)(i) of Public Law 105–85 (111 Stat. 1905) struck out "Defense Subcommittees" and inserted in lieu thereof "Subcommittee on Defense".

[64] Sec. 2827(c) of Public Law 102–484 (106 Stat. 2610) added subsec. (f), which had required the Secretary of Defense to report annually on the status and use of the Overseas Military Facility Investment Recovery Account, was repealed by sec. 1063(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 444).

[65] Originally added as subsec. (g) by sec. 2924(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931). Redesignated as subsec. (f) by sec. 1063(b)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 444).

[66] Sec. 2817(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3057) added para. designation "(1)" and added para. (2).

provements made by the United States to facilities at an installation located in the host country until 30 days after the date on which the Secretary submits the proposed settlement to the Director of the Office of Management and Budget. The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000.[67] The Director shall evaluate the overall equity of the proposed settlement. In evaluating the proposed settlement, the Director shall consider such factors as the extent of the United States capital investment in the improvements being released to the host country, the depreciation of the improvements, the condition of the improvements, and any applicable requirements for environmental remediation or restoration at the installation.

(2)[66] Each year, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives[68] a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.

(g)[69] CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of the military construction project or facility improvement project, as the case may be.

(B) A certification that the project is needed by United States forces.

(C) An explanation of how the project will aid in the achievement of the mission of those forces.

(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

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[67] Sec. 2817(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3057) inserted "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000." after the first sentence.

[68] Sec. 1073(d)(4)(C)(ii) of Public Law 105–85 (111 Stat. 1906) struck out "the Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

[69] Sec. 1305(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892) added this subsec. as subsec. (h). Redesignated as subsec. (g) by sec. 1063(b)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 44).

(A) A description of each activity to be covered by the payment-in-kind.

(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.

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DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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PART B—RECURRING GENERAL PROVISIONS [70]

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SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) NUCLEAR DIRECTED ENERGY WEAPONS CONCEPTS.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1991 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research and testing for nuclear directed energy weapons concepts, including plant and capital equipment related thereto; and

(2) shall be merged with funds appropriated to the Department of Energy.

(c) INERTIAL CONFINEMENT FUSION PROGRAMS.—The Secretary of Defense may transfer to the Secretary of Energy not more than $12,000,000 of the funds appropriated to the Department of Defense for the inertial confinement fusion program. Funds so transferred shall be merged with funds appropriated to the Department of Energy national security programs for research and development.

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[70] Sec. 803 of Public Law 102–25 provided the following:

"SEC. 803. APPLICABILITY OF RECURRING GENERAL PROVISIONS

"The provisions contained in part B of title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1829) shall apply with respect to the authorizations provided in this title in the same manner as such provisions apply with respect to the authorizations provided in title XXXI of such Act.".

PART C—MISCELLANEOUS

SEC. 3131. REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS

(a) REPORT ON REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS.—The Secretary of Energy, in consultation with the Secretary of Defense, shall prepare a report on remanufacture of nuclear stockpile weapons that will require replacement at the end of their stockpile life. The report shall include the following information:

(1) A specification of the nuclear warheads and bombs now in the stockpile which will not be replaced at the end of their stockpile life.

(2) A case-by-case analysis of the technical requirements and estimated costs to prepare for the remanufacture of each certified nuclear weapon design scheduled for retention in the stockpile.

(3) A specification of certified weapons designs designated for retention in paragraph (2) that could be remanufactured and recertified for the stockpile without conducting a nuclear explosive test.

(4) Identification of those certified weapons designs included in paragraph (2) requiring changes to permit remanufacture which could be recertified with a single nuclear explosive proof test to demonstrate proper performance, and the minimum essential yield for each such test.

(5) Identification of those certified weapon designs planned for retention in paragraph (2) requiring modification for remanufacture to the degree that more than one test is indicated to assure proper performance, and the minimum essential number and yield of tests required for each design so modified.

(6) A description of other options that may be employed in the event of reduced reliance on nuclear test explosions, ranging from increasingly extensive modifications of existing designs to the introduction of entirely new designs, and the costs in time, funds, numbers, and yields of tests, and the postulated national security benefits of each of these options clearly set forth in a manner which allows the relative costs and benefits of all the options presented to be directly compared.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit an unclassified report with a classified appendix not later than February 1, 1991.

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SEC. 3142. SENSE OF CONGRESS ON NEGOTIATING AGREEMENTS TO ACHIEVE A COMPREHENSIVE TEST BAN

The Congress, mindful of the commitment of the United States, the Soviet Union, and Great Britain in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek the discontinuance of all test explosions of nuclear weapons for all time and of the commitment which shall be legally binding on the parties upon ratification of the Treaty on the Limitation of Underground Nuclear Weapons Tests to "continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapons tests", states that it is the sense of Congress that the United States shares a special respon-

sibility with the Soviet Union to continue the bilateral Nuclear Testing Talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

PART D—INTERNATIONAL FISSILE MATERIAL AND WARHEAD CONTROL

SEC. 3151. PRODUCTION OF PLUTONIUM AND HIGHLY ENRICHED URANIUM FOR NUCLEAR WEAPONS AND DISPOSAL OF NUCLEAR STOCKPILES

(a) PRODUCTION BY THE SOVIET UNION.—Congress urges the President of the Soviet Union and the Supreme Soviet of the Soviet Union—

(1) to cease production by the Soviet Union of plutonium;

(2) to maintain the cessation in production by the Soviet Union of highly-enriched uranium for weapons that was announced on April 7, 1989.

(b) TECHNICAL ASPECTS OF FISSILE MATERIAL MONITORING AND NUCLEAR WARHEAD DISMANTLEMENT.—Should the President determine that future international agreements should provide for dismantlement of nuclear warheads and a ban on further production of fissile materials for weapons, then the Congress urges the President to seek to establish with the Soviet Union a joint technical working group to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the design and verification of these potential provisions.

(c) REPORT ON VERIFICATION TECHNIQUES.—(1) The President shall prepare a comprehensive technical report on the verification matters described in paragraph (2).

(2) The report shall describe the on-site monitoring techniques, inspection arrangements, and national technical means that could be used by the United States to verify the actions of other nations with respect to the following:

(A) Dismantlement of nuclear warheads in the event that a future agreement between the United States and the Soviet Union should provide for such dismantlement to be carried out in a mutually verifiable manner.

(B) A mutual United States-Soviet ban, leading to a multilateral, global ban, on the production of additional quantities of plutonium and highly-enriched uranium for nuclear weapons.

(C) The end use or ultimate disposal of any plutonium and highly enriched uranium recovered from the dismantlement of nuclear warheads.

(3) In order to prepare the report required by paragraph (1), the President shall establish a Technical Advisory Committee on Verification of Fissile Material and Nuclear Warhead Controls, to be composed of preeminent government and nongovernment experts in the fields of radiation detection, nondestructive examination, nuclear safeguards, nuclear materials production, and nuclear warhead dismantlement. Such committee, which shall be established not later than December 31, 1990, shall advise the President on the availability, use, and further development of techniques which could be applied to the verification of the prospective actions described in paragraph (2).

(4) The report required by paragraph (1) shall be submitted to Congress not later than April 30, 1991. The report shall be submitted in unclassified form with such classified appendices as may be necessary.

SEC. 3152. DEVELOPMENT AND DEMONSTRATION OF MEANS FOR WARHEAD DISMANTLEMENT VERIFICATION

The Secretary of Energy may use funds available to the Secretary for national security programs of the Department of Energy for fiscal year 1991 to carry out a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

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DIVISION D—ECONOMIC ADJUSTMENT, DIVERSIFICATION, CONVERSION, AND STABILIZATION

SEC. 4001.[71] SHORT TITLE

This division may be cited as the "Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990".

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TITLE XLIII—EXPANSION OF BUSINESS CAPITAL ASSISTANCE PROGRAMS

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SEC. 4303. EXPANSION OF EXPORT FINANCING FOR GOODS AND SERVICES PRODUCED BY FIRMS AND EMPLOYEES FORMERLY ENGAGED IN DEFENSE PRODUCTION

(a) EXPORT-IMPORT BANK.—

(1) SENSE OF CONGRESS ON PLAN FOR EXPANSION.—It is the sense of Congress that the United States businesses undergoing transition from defense production to nondefense production will need assistance in seizing export markets overseas. Therefore, in order to provide financial support for such businesses, as well as meeting other normal demands on its resources, the annual direct lending authority of the Export-Import Bank of the United States should be increased by at least 150 percent from the fiscal year 1990 level over the five-year period beginning October 1, 1990.

(2) REPORT OF FEASIBILITY.—Before September 30, 1990, the President, acting with the assistance of the Committee and after consulting the Board of Directors of the Export-Import Bank of the United States and other experts in government and the private sector, shall transmit to the Congress a report assessing the feasibility and desirability of a program for increasing the amount of direct loan authority in the manner described in paragraph (1) and the factors considered in making such assessment.

(3) TRANSITION TO NONDEFENSE PRODUCTION REQUIRED TO BE CONSIDERED.—In determining whether to provide financial support for an export transaction, the Export-Import Bank of the United States shall take into account, to the extent feasible and in accordance with applicable standards and procedures

[71] 10 U.S.C. 2391 note.

established by the bank in consultation with the Committee, the fact that the product or service is produced or provided by any business or group of workers which—

(A) was substantially and seriously affected by defense budget reductions; and

(B) is in transition from defense to nondefense production.

(b) SBA USE OF AUTHORITY FOR EXPORT FINANCING ASSISTANCE.—In determining whether to provide financial or other assistance under the Small Business Act, title VIII of the Omnibus Trade and Competitiveness Act of 1988, or any program referred to in section 4301 to any small business involved in, or attempting to become involved in, the export of any product or service, the Administrator of the Small Business Administration shall take into account the fact that such product or service is produced or provided by any business or group of workers which—

(1) has been substantially and seriously affected by defense budget reductions; and

(2) is in transition from defense to nondefense production.

(c) COORDINATION AND INTEGRATION OF ACTIVITIES AND ASSISTANCE WITH OTHER AGENCIES.—In providing additional financial assistance pursuant to any increase in loan authority under this division—

(1) Federal agencies concerned with international trade shall participate in the process of coordination conducted by the Committee pursuant to section 4004(c)(1);[72] and

(2) such Federal agencies shall attempt, to the maximum extent practicable, to coordinate and integrate the activities and assistance of the agencies in support of exports, including financial assistance in the form of direct loans, loan guarantees, and insurance, general trade promotion, marketing assistance, and marketing and commercial information, in a manner consistent with the purposes of this division (and the amendments made by this division to other provisions of law).

(d) REPORTING.—The annual reports made by the Export-Import Bank of the United States and the Administrator of the Small Business Administration and the annual economic stabilization and adjustment report under section 4004(c)(3)[73] of this division shall include a description of the extent to which the bank and the Administrator are—

(1) providing financing described in subsections (a)(2) and (b), respectively, to businesses or groups of workers which were substantially and seriously affected by defense budget reductions; and

(2) coordinating and integrating export support and financing activities with other Federal agencies.

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[72] Sec. 1062(c)(1) of Public Law 102–190 (105 Stat. 1475) struck out "section 4003(b)" and inserted in lieu thereof "section 4004(c)(1)".

[73] Sec. 1062(c)(2) of Public Law 102–190 (105 Stat. 1475) struck out "section 4003" and inserted in lieu thereof "section 4004(c)(3)".

n. National Defense Authorization Act for Fiscal Years 1990 and 1991

Partial text of Public Law 101–189 [H.R. 2461], 103 Stat. 1352, approved November 29, 1989; as amended by Public Law 101–165 [Department of Defense Appropriations Act, 1990; H.R. 3072], 103 Stat. 1112, approved November 21, 1989; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1990 and 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) ORGANIZATION OF ACT INTO DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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SEC. 3. EXPIRATION OF AUTHORIZATIONS FOR FISCAL YEARS AFTER 1990

Authorizations of appropriations, and of personnel strength levels, in this Act for any fiscal year after fiscal year 1990 are effective only with respect to appropriations made during the first session of the One Hundred First Congress.

SEC. 4. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

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SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 747) as follows:

(1) $263,700,000 for fiscal year 1990.

(2) $317,700,000 for fiscal year 1991.

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PART H—CHEMICAL MUNITIONS

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SEC. 172. CHEMICAL MUNITIONS EUROPEAN RETROGRADE PROGRAM

(a) LIMITATIONS ON RETROGRADE PROGRAM.—The Secretary of Defense may not obligate any funds appropriated for fiscal year 1990 for the purpose of carrying out the chemical munitions European retrograde program involving the withdrawal from Europe of chemical munitions until each of the following occurs:

(1) The Secretary submits to the Committees on Armed Services of the Senate and House of Representatives[1] a certification—

(A) that an adequate United States binary chemical munitions stockpile will exist before any withdrawal of the existing stockpile from its present location in Europe is carried out; and

(B) that the plan for such retrograde program is based on—

(i) minimum technical risk;

(ii) minimum operational risk; and

(iii) maximum safety to the public.

(2) The Secretary submits to those committees a revised concept plan for such retrograde program that includes a description of—

(A) the full budgetary effect of the retrograde program; and

(B) the potential effect of the retrograde program on the chemical demilitarization program.

(b) LIMITATION ON TRANSFER OF FUNDS.—The Secretary of Defense may not transfer any funds from the chemical demilitarization emergency response program for the retrograde program referred to in subsection (a).

SEC. 173. CHEMICAL DEMILITARIZATION CRYOFRACTURE PROGRAM

(a)[2] * * * [Repealed—1996]

(b) USE OF FISCAL YEAR 1989 FUNDS.—Of the amount authorized and appropriated for fiscal year 1989 for the chemical demilitarization program, $16,300,000 shall be obligated immediately for continued research and development testing of the cryofracture program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 for fiscal year 1990 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1990, not more than $3,573,202,000 may be obligated for the Strategic Defense Initiative.

(b) MANAGEMENT HEADQUARTERS SUPPORT.—Of the amount available for the Strategic Defense Initiative pursuant to subsection (a), not more than $23,000,000 shall be available for Management Headquarters Support.

(c) FUNDS FOR SUPPORT OF MEDICAL FREE ELECTRON LASER PROGRAM.—Of the amounts appropriated for fiscal years 1990 and 1991 that are available for the Strategic Defense Initiative, not more than $20,000,000 of that amount for each such year may be used to support the medical free electron laser program.

SEC. 222. REPORT ON ALLOCATION OF FISCAL YEAR 1990 SDI FUNDING

(a) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1990. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1990.

SEC. 223. LIMITATION ON DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1990, or any fiscal year before 1990, shall be subject to the limitations prescribed in paragraph (2).

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[2] Sec. 151 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214) repealed subsec. (a), which read as follows:

"(a) PROGRAM.—The Secretary of Defense, to the extent funds are available for the purpose, shall proceed as expeditiously as possible with the project to develop an operational cryofracture facility at the Tooele Army Depot, Utah.".

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any antiballistic missile system or component, except for development and testing consistent with the development and testing described in the 1989 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the 1989 SDIO Report.

(3) The limitation in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1990 if the transfer is made in accordance with section 1601 of this Act.

(b) DEFINITION.—As used in this section, the term "1989 SDIO Report" means the report entitled, "1989 Report to Congress on the Strategic Defense Initiative," dated January 19, 1989, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 231 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1059; 10 U.S.C. 2431 note).

SEC. 224.[3] ANNUAL REPORT ON BALLISTIC MISSILE DEFENSE[4] PROGRAM.

(a) REPORT REQUIRED.—Not later than March 15 of each year, the Secretary of Defense shall transmit to Congress a report (in both unclassified and classified form) on the programs and projects that constitute the Ballistic Missile Defense program[4] and on any other program or project relating to defense against ballistic missiles.

(b)[5] CONTENT OF REPORT.—Each such report shall include the following:

(1) A statement of the basic strategy for research and development being pursued by the Department of Defense under the

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[3] 10 U.S.C. 2341 note. See also sec. 235 of Public Law 103–160 (107 Stat. 1595), which required new reports and findings on various aspects of the Theater Missile Defense Initiative, and sec. 236, which required a new report on the Limited Defense System.

Sec. 234(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 230) required the following:

"(e) PROGRAM ACCOUNTABILITY REPORT.—(1) As part of the annual report of the Ballistic Missile Defense Organization required by section 224 of Public Law 101–189 (10 U.S.C. 2431 note), the Secretary of Defense shall describe the technical milestones, the schedule, and the cost of each phase of development and acquisition (together with total estimated program costs) for each core and follow-on theater missile defense program.

"(2) As part of such report, the Secretary shall describe, with respect to each program covered in the report, any variance in the technical milestones, program schedule milestones, and costs for the program compared with the information relating to that program in the report submitted in the previous year and in the report submitted in the first year in which that program was covered.".

[4] Sec. 240 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1603) replaced all references to the "Strategic Defense Initiative", or "SDI", with references to the "Ballistic Missile Defense", "BMD", or "Ballistic Missile Defense program" throughout sec. 224.

[5] Sec. 244 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2463) struck out paras. (3), (4), and (10) of this subsec. and redesignated paras. (5) through (9) as paras. (3) through (7), respectively.

Ballistic Missile Defense program (BMD),[4] including the relative priority being given, respectively, to the development of near-term deployment options and research on longer-term technological approaches.

(2) A detailed description of each program or project which is included in the Ballistic Missile Defense program[4] or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(3)[5] The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Ballistic Missile Defense program.[4]

(4)[5] A statement of the compliance of the planned BMD[2] development and testing programs with existing arms control agreements, including the 1972 Anti-Ballistic Missile Treaty.

(5)[5] A review of possible countermeasures[6] to specific BMD[4] programs, an estimate of the time and cost required[6] to develop each such countermeasure, and an evaluation of the adequacy of the BMD[4] programs described in the report to respond to such countermeasures.

(6)[5] Details regarding funding of programs and projects for the Ballistic Missile Defense program[4] (including the amounts authorized, appropriated, and made available for obligation after undistributed reductions or other offsetting reductions were carried out), as follows:

(A) The level of requested and appropriated funding provided for the current fiscal year for each program and project in the Ballistic Missile Defense program[4] budgetary presentation materials provided to Congress.

(B) The aggregate amount of funding provided for previous fiscal years (including the current fiscal year) for each such program and project.

(C) The amount requested to be appropriated for each such program and project for the next fiscal year.

(D) The amount programmed to be requested for each such program and project for the following fiscal year.

(E) The amount required to reach the next significant milestone for each demonstration program and each major technology program.

(7)[5] Details on what Ballistic Missile Defense program[4] technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include the following:

(A) Defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate shorter-range ballistic

[6] Sec. 244(3) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2463) struck out "of the Soviet Union" after "countermeasures" and "for the Soviet Union" after "cost required".

missiles[7] armed with conventional, chemical, or nuclear warheads.

(B) Defending against an accidental launch of strategic ballistic missiles against the United States.

(C)[8] Any other significant near-term military mission that the application of BMD[4] technologies might help to accomplish.

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PART E—CHEMICAL AND BIOLOGICAL WARFARE PROGRAMS

SEC. 241. PROGRAM FOR MONITORING COMPLIANCE WITH POSSIBLE CHEMICAL WEAPONS CONVENTION

Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies for fiscal year 1990, $15,000,000 shall be available for use only by the Office of the Secretary of Defense to conduct a program to develop and demonstrate compliance monitoring capabilities in support of efforts by the United States in the Conference on Disarmament at Geneva to achieve a verifiable convention on the prohibition of chemical weapons.

SEC. 242. REPORT ON BIOLOGICAL DEFENSE RESEARCH PROGRAM

(a) REPORT.—The Secretary of Defense shall submit to the Congress a report on research, development, test, and evaluation conducted by the Department of Defense during fiscal year 1989 under the Biological Defense Research Program. The report shall be submitted in both classified and unclassified form in conjunction with the submission of the budget to Congress for fiscal 1991.

(b) CONTENT OF REPORT.—The report shall address the following matters:

(1) Each biological or infectious agent used in, or the subject of, research, development, test, and evaluation conducted under that program during that fiscal year and not previously listed in the Center for Disease Control Guidelines.

(2) The biological properties of each such agent.

(3) With respect to each agent, the location at which research, development, test, and evaluation under that program involving that agent is conducted and the amount of funds expended during that fiscal year under the program at that location.

(4) The biosafety level used in conducting that research, development, test, and evaluation.

(c) TYPES OF RESEARCH AFFECTED.—Subsection (a) applies to all research, development, test, and evaluation conducted under the Biological Defense Research Program by the Department of Defense.

(d) DEFINITION.—In this section the term "biosafety level" means the applicable biosafety level described in the publication entitled "Biosafety in Microbiological and Biomedical Laboratories" (CDC–NIH, 1984).

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[7] Sec. 244(5)(A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2463) struck out "of the Soviet Union" after "ballistic missiles".

[8] Sec. 244(5)(B) and (C) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2463) struck out subparas. (C) through (F) and redesignated subpara. (G) as subpara. (C).

SEC. 243.[9] RESTORATION OF CERTAIN REPORTING REQUIREMENTS RELATING TO CHEMICAL AND BIOLOGICAL WARFARE AGENTS * * *

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

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SEC. 304. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—Funds appropriated pursuant to the authorizations in subsections (a)(16) and (b)(16) of section 301[10] for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the funds appropriated for each of fiscal years 1990 and 1991 pursuant to such subsections for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such subsections for each of fiscal years 1990 and 1991 for humanitarian assistance to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such subsections for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

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[9] Sec. 243 amended the Goldwater-Nichols Department of Defense Reorganization Act of 1986. See 100 Stat. 1066; 10 U.S.C. 111 note.

[10] Sec. 301 authorized $13,000,000 for humanitarian assistance for each fiscal year 1990 ((a)(16)) and 1991 ((b)(16)).

(f)[11] REPORTS TO CONGRESS.— * * * [Repealed—1990]

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PART B—LIMITATIONS

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SEC. 311. PROHIBITION ON PAYMENT OF SEVERANCE PAY TO FOREIGN NATIONALS IN THE EVENT OF CERTAIN BASE CLOSURES

(a) * * *

(b) * * *

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

(1) in the event a United States military facility located in a foreign country is closed (or activities at the facility are curtailed) at the request of the government of that country, such government should be responsible for the payment of severance pay to foreign nationals in the country whose employment by the United States or by a contractor under a contract with the United States is terminated as a result of the closure or curtailment; and

(2) in negotiating a status-of-forces agreement or other country-to-country agreement with the government of a foreign country, the President should endeavor to include in the agreement a provision that would require the government of that country to pay severance pay to foreign nationals in that country whose employment is terminated as a result of the closing of, or the curtailment of activities at, a United States military facility in that country, if the closing or curtailment is at the request of the government of that country.

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SEC. 314. REDUCTION IN THE NUMBER OF CIVILIAN PERSONNEL AUTHORIZED FOR DUTY IN EUROPE

(a) REDUCTION REQUIRED.—The number of civilian employees of the Department of Defense authorized for duty in Europe on the date of the enactment of this Act shall be reduced by a number equal to the number of remaining authorizations for employees of the department that—

(1) were related to intermediate-range nuclear forces on December 8, 1987; and

(2) are unnecessary as a result of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

(b) DEADLINE FOR REDUCTION.—The reduction in the number of employees authorized for duty in Europe required by subsection (a) shall be completed not later than October 1, 1991.

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[11] Sec. 303(f)(5) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1526) repealed subsec. (f), which had required the Secretary of Defense to submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives several reports on the funds obligated for humanitarian relief under various humanitarian relief laws.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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PART B—CHANGES TO ACQUISITION STATUTES

SEC. 815.[12] DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS * * *

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PART C—OTHER ACQUISITION POLICY MATTERS

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SEC. 823. LIMITATION ON AUTHORITY TO WAIVE BUY AMERICAN ACT REQUIREMENT

(a)[13] DETERMINATION BY SECRETARY OF DEFENSE.—(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of that agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement, including any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products produced in that country.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal years 1990 and 1991. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

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SEC. 825.[14] STUDY AND REPORT ON DEFENSE EXPORT FINANCING

(a) STUDY.—The President shall conduct a study of export financing of defense articles. In the course of the study, the President shall—

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[12] Sec. 815 amended sec. 2504 of 10 U.S.C.

[13] 41 U.S.C. 10b–2.

[14] In a memorandum for the Director of the Office of Management and Budget of March 7, 1990 (55 F.R. 10033), the President delegated "to the Director of the Office of Management and

Continued

(1) examine the effect of export financing on the ability of United States industry to compete in the international market for defense products;

(2) determine the extent to which other countries support commercial financing for defense exports through official government credit programs;

(3) determine the extent to which United States private capital is used to support defense exports and the obstacles that United States lending institutions face in providing additional support; and

(4) determine the feasibility and desirability of using existing or new Government export guarantee programs to provide greater private capital support for United States defense exports.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall submit to Congress a report on the findings of the study under subsection (a).

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PART F—MISCELLANEOUS

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SEC. 852.[15] PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

(a) SENSE OF CONGRESS.—It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from any person of any country which has been identified by the United States Trade Representative, on the advice of the Commissioner of Patents and Trademarks in the Department of Commerce and the Register of Copyrights, pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242)[16] as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection.

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TITLE IX—MATTERS RELATING TO NATO MEMBER NATIONS AND OTHER ALLIES

PART A—CONVENTIONAL FORCE REDUCTIONS IN EUROPE

SEC. 901. FRAMEWORK FOR DETERMINING CONVENTIONAL FORCE REQUIREMENTS IN A CHANGING THREAT ENVIRONMENT

(a) EVALUATION OF EFFECT OF WARSAW PACT REDUCTIONS AND OF POSSIBLE CFE AGREEMENT.—The Secretary of Defense shall submit to the congressional defense committees a report providing

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Budget the authority for conducting a study of export financing of defense articles and reporting to the Congress on the findings of such study as required by section 825".

[15] Sec. 1302(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1668) struck out subsec. 852(b), which had required the Secretary of Defense to report to the Committees on Armed Services, on Finance, and on the Judiciary of the Senate and the Committees on Armed Services, on Ways and Means, and on the Judiciary of the House of Representatives, on this matter.

[16] For text, see *Legislation on Foreign Relations Through 1997*, vol. III, sec. J.

the Secretary's evaluation of the effect upon requirements of the United States for conventional forces and for military spending that could be anticipated under the following assumptions:

(1) The full implementation of the unilateral force reductions in, and subsequent reorganization of, forces of the Soviet Union described by the President of the Soviet Union on December 7, 1988, and the unilateral force reductions subsequently announced by the other members of the Warsaw Pact.

(2) Entry into force of a conventional arms control agreement establishing rough parity in conventional forces in Europe between forces of the North Atlantic Treaty Organization and the Warsaw Pact at equal levels (at approximately 85 to 90 percent of NATO's current inventory) of tanks, artillery, armored troop carriers, combat helicopters, and land-based combat aircraft.

(b) MATTERS TO BE INCLUDED IN EVALUATION.—In carrying out the evaluation required by subsection (a) of the unilateral force reductions referred to in paragraph (1) of that subsection and the potential effect of an agreement referred to in paragraph (2) of that subsection, the Secretary shall include in the evaluation (at a minimum) the following (stated for both the near-term and mid-term):

(1) An assessment of the threat to NATO under the assumptions specified in each of paragraphs (1) and (2) of subsection (a).

(2) The effect on the defense strategy of the United States for meeting its NATO commitments in the changing threat environment, including the effect on the ability of NATO to defend against an attack by the Warsaw Pact (A) on short warning, or (B) during a crisis in Europe.

(3) The effect on—

(A) the mix of active and reserve forces of the United States;

(B) the ratio of (i) conventional forces of the United States deployed in the European theater, to (ii) conventional forces of the United States deployed in the continental United States; and

(C) air and sea lift requirements.

(3) The effect on operational military concepts of the United States and NATO (such as Follow-on Forces Attack (FOFA), AirLand Battle, Maritime Strategy, and Rapid Reinforcement) that were initially developed to counter the large advantage of the Warsaw Pact in conventional land forces in the European theater.

(4) The effect on equipment requirements of the United States for meeting its commitments to NATO in the 1990s.

(c) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted concurrently with the submission to Congress of the President's budget for fiscal year 1991 pursuant to section 1105 of title 31, United States Code. The report shall be submitted in both classified and unclassified form.

SEC. 902. IMPLICATIONS OF MUTUAL REDUCTIONS IN CONVENTIONAL FORCES IN EUROPE BY NATO AND WARSAW PACT MEMBER NATIONS

(a) COMMENDATION OF PRESIDENT'S CONVENTIONAL ARMS REDUCTION INITIATIVE.—Congress commends and supports the President's

conventional arms control initiative announced in Brussels on May 29, 1989, in which the President proposed, and the North Atlantic Treaty Organization (NATO) agreed, that NATO expand its negotiating position at the negotiations on reductions in conventional forces in Europe (begun in Vienna on March 9, 1989, and known as the "CFE Talks") to include—

(1) substantial reductions by each side to equal ceilings of helicopters and combat aircraft; and

(2) a reduction to a common ceiling of United States military personnel stationed in Western Europe and Soviet military personnel stationed in Eastern Europe.

(b) PRESIDENTIAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, the President shall submit to Congress an unclassified report, with classified annexes as necessary, on the foreign policy and military implications to NATO and to the Warsaw Pact of significant reductions of conventional forces by NATO and Warsaw Pact countries to a ceiling which is the same for both sides.

(2) The report shall address possible force reduction scenarios for a second round of CFE negotiations and shall be based upon two different assumptions with regard to the level of reductions in personnel and equipment to be made. Under the first assumption, personnel and equipment would be reduced to a level 25 percent below current NATO levels. Under the second assumption, personnel and equipment would be reduced to a level 50 percent below current NATO levels.

(3) The report shall include the following:

(A) A comprehensive net assessment of the current balance between NATO forces and Warsaw Pact forces and of the overall trends in that balance, including an assessment of the trends in active and reserve forces and in total equipment holdings in stationed and indigenous forces.

(B) A description of the likely alternative force postures that could be adopted by member nations of both alliances (particularly by the United States and the Soviet Union) under each of the assumptions analyzed, together with a description of the possible effects of restructuring of both NATO and Warsaw Pact forces in Europe for defensive purposes.

(C) A statement of the costs (or savings) to the United States, over at least a seven-year period, estimated to be associated with each force posture described under subparagraph (B), together with an analysis of how those costs (or savings) were determined.

(D) An analysis of the implications for NATO strategy, security, and military policy under each of the reduction levels referred to in paragraph (2), including a net assessment of the resulting balance between NATO forces and Warsaw Pact forces.

(E) An assessment of the effects under each of the reduction levels referred to in paragraph (2) (including the alternative force postures under each assumption) upon the stability of the conventional balance of forces in Europe.

(F) An assessment of the ability of NATO to defend Europe under each of the assumed reduction levels in the event of an

attack by the Warsaw Pact (i) on short warning, or (ii) during a crisis in Europe.

(G) An assessment of the effects under each of the reduction levels referred to in paragraph (2) on—

(i) the short-range nuclear force requirements of NATO;

(ii) the requirements of the United States for POMCUS and war-reserve stocks;

(iii) the requirements of NATO for airlift and sealift based in the United States and for reinforcing units from the United States; and

(iv) the ability of the United States to meet global military requirements.

SEC. 903. REPORT ON VERIFICATION MEASURES FOR POSSIBLE CONVENTIONAL ARMS CONTROL AGREEMENT

(a) REPORT.—The President shall submit to Congress a report on the types of measures that would be required to verify the proposal for reductions in conventional forces in Europe adopted by the member nations of the North Atlantic Treaty Organization (NATO) on May 30, 1989.

(b) MATTERS TO BE INCLUDED IN REPORT.—The President shall include in the report under subsection (a) the following:

(1) A discussion of the types of information that it would be necessary for the parties to such an agreement to exchange for such verification.

(2) A discussion of the range of options under consideration by the executive branch for defining what constitutes a militarily significant violation of a conventional arms control agreement.

(3) A description of the national technical means, on-site inspections, and other cooperative measures that would be necessary to detect violations of such an agreement, including—

(A) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and (if required by the agreement) the destruction of military equipment provided for in any such agreement; and

(B) the President's judgment on those on-site inspections and confidence building measures under consideration that are the most acceptable, and the least acceptable, to the NATO alliance and the Warsaw Pact, including an assessment of the counterintelligence aspects of such measures for NATO.

(4) A discussion of the procedures the NATO alliance would follow in the event of a violation of such an agreement by a member of the Warsaw Treaty Organization.

(c) DATA BASE ANALYSIS.—(1) The report under subsection (a) shall also include a comprehensive analysis of—

(A) the uncertainties in the data bases to be used by United States intelligence with respect to the military forces of NATO member nations and Warsaw Pact member nations located in the proposed areas of reduction;

(B) the uncertainties in the estimates of the trends in such forces; and

(C) the differences in the data bases and counting rules used by the United States, the allies of the United States, and the Warsaw Pact member nations.

(2) The analysis under paragraph (1) shall address separately the uncertainties in the estimates of each of the following:

(A) Active forces.

(B) Reserve forces.

(C) Equipment subject to reductions and ceilings.

(D) Indigenous forces.

(E) Stationed forces.

(d) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than March 1, 1990. The report shall include such comments and recommendations as the President determines appropriate. The report shall be submitted in both classified and unclassified versions.

PART B—BURDEN SHARING

SEC. 911.[17] REDUCTION IN AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE * * * [Repealed—1990]

SEC. 912.[18] ACTIVE-DUTY FORCES IN EUROPE OF MEMBER NATIONS OF NATO

(a) FINDINGS.—Congress makes the following findings:

(1) Member nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented to the nations of the Warsaw Pact a comprehensive proposal concerning reductions in conventional forces in Europe for consideration in the negotiations on Conventional Armed Forces in Europe (CFE).

(2) An agreement based on that proposal would significantly enhance security and stability in Europe and the cause of peace worldwide.

(3) Irrespective of developments in the CFE negotiations, several member nations of NATO are considering making significant unilateral reductions over the next several years in the number of their active-duty forces in Europe.

(4) Such unilateral reductions in active-duty forces before an agreement on CFE enters into force would—

(A) undercut efforts by NATO to improve its conventional defense posture in Europe, increase reliance by NATO on the threat of the early use of nuclear weapons to deter aggression, and undermine the NATO arms control negotiating posture in the CFE negotiations; and

(B) exacerbate longstanding burdensharing tensions among member nations of NATO.

(5) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the

[17] Sec. 911, which would have amended sec. 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), to reduce end strength of U.S. military personnel in Europe, effective September 30, 1991, was repealed by sec. 406(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1546). Sec. 406 of that Act amended sec. 1002(c)(1) of the Department of Defense Authorization Act, 1985, and provided further criteria for military force reduction.

[18] 22 U.S.C. 1928 note.

costs of mutual defense continue to be borne disproportionately by the United States.

(6) Adjustments in burdensharing are long overdue.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "active-duty forces in Europe" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO, except that such term does not include INF-related forces.

(2) The term "INF-related forces" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO who are to be demobilized or withdrawn from Europe as a result of the elimination of the intermediate-range nuclear weapons of the United States pursuant to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

(3) The term "U.S. end-strength level in Europe" means the actual number of active-duty forces in Europe of the Armed Forces of the United States at the end of a fiscal year.

(4) The term "allied forces end-strength level in Europe" means the actual number of active-duty forces in Europe of the armed forces of member nations of NATO (other than the United States) in Europe at the end of a fiscal year.

(c) BASELINE REPORT ON ACTIVE-DUTY FORCES IN EUROPE.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs[19] of the House of Representatives a report on the number of the active-duty forces in Europe of the member nations of NATO. The report shall identify the following:

(1) The U.S. end-strength level in Europe for fiscal year 1989.

(2) The allied forces end-strength level in Europe for fiscal year 1989.

(3) The actual number of active-duty forces in Europe of the armed forces of each member nation of NATO (other than the United States) at the end of fiscal year 1989.

(4) The ratio (expressed in terms of a percentage) of—

(A) the U.S. end-strength level in Europe; to

(B) the allied forces end-strength level in Europe.

(d) U.S.-ALLIED FORCES RATIO.—(1) The ratio identified for fiscal year 1989 under subsection (c)(4) is hereinafter in this section referred to as the "baseline U.S.-allied forces ratio".

(2) The ratio identified in an annual report under subsection (e) is hereinafter in this section referred to as the "U.S.-allied forces ratio".

(e) ANNUAL REPORT ON MAINTAINING ACTIVE-DUTY FORCES IN EUROPE.—(1) During each of the fiscal years 1991, 1992, and 1993,

[19] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

the Secretary of Defense shall prepare a report identifying for the preceding fiscal year the following:

(A) The U.S. end-strength level in Europe for the fiscal year covered by the report.

(B) The allied forces end-strength level in Europe for such fiscal year.

(C) The ratio (expressed in terms of a percentage) of the U.S. end-strength level in Europe to the allied forces end-strength level in Europe for the fiscal year covered by the report.

(2) The Secretary shall include in each such report the following:

(A) A statement of whether there has been any change in the U.S.-allied forces ratio for such fiscal year compared with—

(i) the baseline U.S.-allied forces ratio; and

(ii) after fiscal year 1991, the U.S.-allied forces ratio for the fiscal year immediately preceding the fiscal year covered by such report.

(B) In the case of a change in the U.S.-allied forces ratio for such fiscal year, a description of the amount of such change and any explanation of the cause for such change.

(C) A discussion of any action taken by the United States during such fiscal year to encourage member nations of NATO (other than the United States) to increase the number of their active-duty forces in Europe and the results of that action.

(3)(A) Except as provided in subparagraph (B), the report required by paragraph (1) shall be submitted to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs[20] of the House of Representatives not later than April 1 of each fiscal year referred to in such paragraph.

(B) The Secretary shall be considered to have complied with subparagraph (A) in a fiscal year if the Secretary includes the information required by paragraphs (1) and (2) in the report submitted in such year pursuant to section 1002(d)(2) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

(f) LIMITATION ON OBLIGATION OF FUNDS.—(1) If the Secretary of Defense states in a report prepared under subsection (e) that the U.S.-allied forces ratio for the fiscal year covered by such report is greater than the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point—

(A) the President shall undertake appropriate diplomatic initiatives to persuade the member nations of NATO (other than the United States) to increase the number of their active-duty forces in Europe so that the U.S.-allied forces ratio no longer exceeds the baseline U.S.-allied forces ratio; and

(B) funds appropriated to or for the use of the Department of Defense may not be obligated or expended for the next fiscal year to support active-duty forces in Europe of the Armed Forces of the United States at an end-strength level that would cause the U.S.-allied forces ratio in such fiscal year to exceed the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point.

[20] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(2) The President may waive the provisions of paragraph (1) if the President determines that such action is critical to the national security of the United States. The President shall immediately notify Congress of such a waiver and the reasons for such waiver.

(3) Paragraph (1) shall not apply in the event of a declaration of war or an armed attack on any member nation of NATO or in the event that a comprehensive arms reduction agreement enters into force as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) END-STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

SEC. 913. CONTRIBUTIONS BY JAPAN TO GLOBAL SECURITY

(a) FINDINGS.—Congress finds—

(1) that extraordinary political, economic, and social changes have occurred in Japan since World War II; and

(2) that, as a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in view of the changes referred to in subsection (a), Japan should—

(1) assume increased responsibility for its own security;

(2) offset the direct costs incurred by the United States in deploying military forces for the defense of Japan, including costs (other than pay and allowances) related to the presence of United States military personnel in Japan; and

(3) make a contribution to the common defense that is more commensurate with its economic status by taking the following actions:

(A) Increasing expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devoting any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devoting any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designating those nations that are to be recipients of increased development assistance referred to in sub-

paragraphs (A) through (C) after consultation with Japan's security partners.

(E) Completing, after consultation with the United States, the 5-year defense program of Japan for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfilling the pledge made by the Prime Minister of Japan in May 1981 to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 nautical miles.

(F) Acquiring "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(c) NEGOTIATIONS AND CONSULTATIONS.—At the earliest practicable date after the enactment of this Act, the President shall—

(1) enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan; and

(2) issue an invitation to the Government of Japan and other governments of Pacific allies of the United States to engage in annual multilateral consultations on security concerns, consistent with the constitutions and national defense requirements of the respective countries.

(d) REPORTS.—(1) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in paragraph (3) an initial report on the status and results of—

(A) the negotiations with Japan referred to in subsection (c)(1); and

(B) the invitation required under subsection (c)(2), including any consultations resulting from such invitation.

(2) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the matters referred to in paragraph (1).

(3) The congressional committees referred to in this subsection are the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs [21] of the House of Representatives.

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SEC. 915. UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP AND OTHER SECURITY MATTERS IN EAST ASIA

(a) FINDINGS.—Congress makes the following findings:

(1) Since the end of the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

[21] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(2) Despite this progress, an indigenous military balance has not yet been achieved on the Korean peninsula, and the Democratic People's Republic of Korea continues to pose a serious threat to the security of the Republic of Korea.

(3) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(4) The Republic of Korea has dedicated a large share of its national resources to its security, as shown by the fact that defense expenditures comprise approximately one-third of the national budget of the Republic of Korea.

(5) The United States has contributed a large amount of national resources, including approximately 44,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(6) The presence of United States military personnel in the Republic of Korea contributes to the preservation of peace on the Korean peninsula, serves as a military deterrent, and is a tangible manifestation of the commitment of the United States to the defense of the Republic of Korea.

(7) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(b) SENSE OF CONGRESS ON THE UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP.—(1) It is the sense of Congress that—

(A) the United States should review the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) an initial report on the status and results of any consultations held by the United States and the Republic of Korea on the matter referred to in paragraph (1)(D).

(3) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the consultations referred to in paragraph (1)(D).

(c) REPORT ON MILITARY PRESENCE IN EAST ASIA.—(1) Not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) a report on the military presence of the United States in East Asia, including the Republic of Korea. The President shall include in such report a strategic

plan relating to the continued United States military presence in East Asia.

(2) The report required by this subsection shall specifically include the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of any changes in the missions, force structure, and locations of United States forces in East Asia that could strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(3) The report required by this subsection shall also include a five-year plan with respect to the United States military presence in the Republic of Korea, including a discussion of the feasibility and desirability of the following:

(A) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(B) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(C) The relocation of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(D) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(E) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(F) Additional actions the Republic of Korea could take to assume more responsibility for its own security.

(d) CONGRESSIONAL COMMITTEES TO RECEIVE REPORTS.—The congressional committees referred to in this section are the congressional defense committees, the Committee on Foreign Relations

of the Senate, and the Committee on Foreign Affairs[22] of the House of Representatives.

PART C—EXPENDITURES IN EUROPE

SEC. 921. LIMITATION ON EXPENDITURES FOR RELOCATION OF FUNCTIONS LOCATED AT TORREJON AIR BASE, MADRID, SPAIN

(a) LIMITATION.—During the period beginning on June 27, 1989, and ending on October 1, 1993, not more than $360,000,000 may be obligated or expended from funds available to the Department of Defense for the purpose of relocating functions of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to any other location outside the United States.

(b) COUNTING OF NATO INFRASTRUCTURE CONTRIBUTIONS.—For purposes of subsection (a), contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, that are used (directly or indirectly) for the purpose of relocations described in subsection (a) shall be included in determining the amount expended on such relocations.

(c) COUNTING OF REPAYMENTS FOR NATO INFRASTRUCTURE FAMILY HOUSING COMMITMENTS.—(1) All amounts which the United States is obligated to pay under a housing reimbursement agreement described in paragraph (2) shall be deemed to be amounts obligated for purposes of subsection (a), regardless of when the agreement is entered into or when payments pursuant to the agreement are to be made.

(2) A housing reimbursement agreement for purposes of paragraph (1) is an agreement calling for the United States to make a series of annual payments as repayment for advances for the cost of construction, through the NATO Infrastructure program, of military family housing in connection with the relocations described in subsection (a).

(d) EXCLUSION FOR PERSONNEL EXPENSES.—There shall be excluded from the determination of amounts expended on relocations described in subsection (a) amounts spent for expenses associated with permanent change of station moves and other personnel-related expenses.

SEC. 922. SENSE OF CONGRESS CONCERNING UNITED STATES MILITARY FACILITIES IN NATO MEMBER COUNTRIES

(a) NATO POLICY.—It is the sense of Congress that the North Atlantic Treaty Organization (NATO) should adopt as its policy the following views expressed by the North Atlantic Assembly in its 1987 report entitled "NATO in the 1990s":

(1) The member nations of NATO should examine further measures that could be taken to relieve the United States from the burdens of its military presence in Europe.

(2) Such nations should consider the provision of base facilities for allied forces and equipment as a part of their national contributions to Western security.

[22] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(3) Such nations should not expect compensation for providing facilities that the NATO alliance decides are essential to implement NATO security strategy.

(4) All wealthier member nations of NATO should assist Portugal, Greece, and Turkey to ensure that NATO remains politically, economically, and militarily strong in its southern region as well as in its central and northern regions.

(b) UNITED STATES PAYMENT FOR USE OF BASE FACILITIES IN NATO COUNTRIES.—It is further the sense of Congress that the United States should not provide economic or security assistance to any NATO member nation as compensation or rent for the use of base facilities in that nation.

PART D—COOPERATIVE AGREEMENTS [23]

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SEC. 934.[24] TWO-YEAR EXTENSION OF AUTHORITY TO PROVIDE EXCESS DEFENSE ARTICLES FOR THE MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES ON NATO SOUTHERN AND SOUTHEASTERN FLANKS * * *

SEC. 935. AUTHORITY FOR EXCHANGE TRAINING THROUGH SPECIFIED PROFESSIONAL MILITARY EDUCATION INSTITUTION OUTSIDE THE UNITED STATES

(a) AUTHORITY.—The United States Army Russian Institute in Garmisch-Partenkirchen, Federal Republic of Germany, shall be treated for purposes of section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) as if it were located in the United States.

(b) EXPIRATION OF AUTHORITY.—Subsection (a) shall cease to be in effect upon the enactment in foreign assistance authorizing legislation of an amendment to section 544 of the Foreign Assistance Act of 1961 that provides the same authority as is provided by subsection (a).

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TITLE X—MATTERS RELATING TO ARMS CONTROL [25]

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TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1201. FUNDING FOR MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

(a) IN GENERAL.—(1) Of the amounts appropriated pursuant to this Act for the Department of Defense for fiscal year 1990, not more than $450,000,000 shall be available from the sources and in the amounts specified in paragraph (2) for carrying out the drug interdiction and counter-drug activities provided for in this title.

(2) The amounts and sources referred to in paragraph (1) are as follows:

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[23] Secs. 931 through 933 of Part D added or redesignated secs. 2350a–2350f to title 10, United States Code, and made conforming amendments to previous years' defense authorization legislation.

[24] Sec. 934 amended sec. 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(a)).

[25] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

(A) $182,000,000 of the amounts appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of the amounts appropriated pursuant to division B for land acquisition and construction.

(b) OPERATIONS OF THE DEPARTMENT OF DEFENSE.—Of the amount made available under subsection (a), $284,000,000 shall be available to carry out the mission of the Department of Defense relating to drug interdiction and counter-drug activities (other than purposes specified in subsections (c) through (g)).

(c) NATIONAL GUARD.—Of the amount made available under subsection (a), $70,000,000 shall be available to provide funds under section 1207 for the purpose of drug interdiction by, and counter-drug activities of, the National Guard.

(d) INTEGRATION OF C3I ASSETS.—Of the amount made available under subsection (a), $27,000,000 shall be available to carry out the activities of the Department of Defense under section 1204.

(e) RESEARCH AND DEVELOPMENT.—Of the amount made available under subsection (a), $28,000,000 shall be available to carry out research and development activities referred to in section 1205.

(f) CIVIL AIR PATROL.—Of the amount made available under subsection (a), $1,000,000 shall be available to support Civil Air Patrol activities under section 1209.

(g) OTHER ASSISTANCE.—Of the amount made available under subsection (a), $40,000,000 shall be available to carry out the authority of the Secretary under section 1212 to provide additional counter-drug support to civilian agencies.

SEC. 1202.[26] DEPARTMENT OF DEFENSE AS LEAD AGENCY FOR THE DETECTION AND MONITORING OF AERIAL AND MARITIME TRANSIT OF ILLEGAL DRUGS * * *

SEC. 1203. BUDGET PROPOSALS RELATING TO DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

The budget of the United States Government submitted to Congress under section 1105 of title 31, United States Code, for fiscal years 1991 and 1992 shall set forth separately the amount requested for the mission of the Department of Defense related to drug interdiction and counter-drug activities in support of civilian agencies.

SEC. 1204. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy.

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[26] Sec. 1202 added sec. 124 to 10 U.S.C. Sec. 1202 also repealed sec. 1102 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2042).

(b) CONFORMING REPEAL.—Section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2042), is repealed.

SEC. 1205. RESEARCH AND DEVELOPMENT

The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers.

SEC. 1206. TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

(a) EXERCISES REQUIRED.—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

(b) REPORT.—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

(2) The report shall include—

(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and

(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

(c) DRUG-INTERDICTION AREAS DEFINED.—For purposes of this section, the term "drug-interdiction areas" includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred.

SEC. 1207.[27] DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES OF THE NATIONAL GUARD * * *

SEC. 1208.[28] * * * [Repealed—1996]

SEC. 1209. CIVIL AIR PATROL

To the extent funds are available under section 1201(f), the Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

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[27] Sec. 1207 added a new 32 U.S.C. 112.

[28] Sec. 1033(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2640) repealed sec. 1208, which had authorized the transfer of excess Department of Defense personal property for other Federal and State agencies' counter-drug activities. See 10 U.S.C. 2576a.

SEC. 1210.[29] OPERATION OF EQUIPMENT USED TO TRANSPORT CIVILIAN LAW ENFORCEMENT PERSONNEL * * *

SEC. 1211.[30] RESTRICTION ON DIRECT PARTICIPATION BY MILITARY PERSONNEL * * *

SEC. 1212. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

At the request of the head of a Federal agency with counter-drug responsibilities, the Secretary of Defense during fiscal year 1990 may provide support for the counter-drug activities of that agency as follows:

(1) Maintenance and repair of equipment that has been made available by the Department of Defense under chapter 18 of title 10, United States Code, in order to preserve the potential future utility of such equipment to the Department of Defense.

(2) Transportation of personnel, supplies, and equipment for purposes of facilitating a counter-drug operation.

(3) Establishment and operation of a base of operations for purposes of facilitating a counter-drug operation.

(4) Loan of National Guard equipment, subject to such minimum standards of care and maintenance and such minimum training and proficiency requirements for persons who are to use such equipment as the Secretary considers appropriate.

(5) Training of personnel.

SEC. 1213. REPORTS

(a) BY THE PRESIDENT.—Not later than April 1, 1990, the President shall submit to Congress a report—

(1) describing the progress made on implementation of the plan required by section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (10 U.S.C. 374 note);

(2) containing an analysis of the feasibility of establishing a National Drug Operations Center for the integration, coordination, and control of all drug interdiction operations; and

(3) describing how intelligence activities relating to narcotics trafficking can be integrated, including—

(A) coordinating the collection and analysis of intelligence information;

(B) ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies responsible for interdiction, eradication, law enforcement, and other counter-drug activities; and

(C) coordinating and controlling all intelligence activities relating to counter-drug activities.

(b) BY THE SECRETARY OF DEFENSE.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit a report to Congress—

(A) on the specific drug-related research and development projects to be funded, and the planned allocation of funding for such projects, under section 1205;

(B) on the feasibility of detailing officers in the Judge Advocate General's Corps of the military departments to the De-

[29] Sec. 1210 amended sec 374(b)(2)(E) of 10 U.S.C.
[30] Sec. 1211 amended sec. 375 of 10 U.S.C.

partment of Justice to assist in the prosecution of drug cases in areas in which there is a lack of sufficient prosecutorial resources;

(C) on the feasibility of increasing the use of the resources and personnel of the Special Operations Command in drug interdiction and counter-drug activities; and

(D) on the desirability and feasibility of assigning active-duty members of the Armed Forces, at the request of the Secretary of the Treasury and with the approval of the Secretary of Defense, to assist the United States Customs Service in the inspection of cargo, vehicles, vessels, and aircraft at points of entry into the United States.

In preparing the report required by this paragraph, the Secretary shall consult with the Director of National Drug Control Policy and other appropriate heads of agencies.

(2) Not later than April 1, 1990, the Secretary of Defense shall submit a report to Congress on—

(A) the feasibility of establishing aerial and maritime navigational corridors by which civilian aircraft and vessels may travel through drug interdiction areas, as defined in section 1206(c);

(B) the feasibility of requiring the submission of navigational plans for all civilian aircraft and vessels that will travel in such areas; and

(C) the funding considered necessary to implement a plan to carry out the matters referred to in subparagraphs (A) and (B).

In preparing the report required by this paragraph, the Secretary shall consult with the Secretary of Transportation and the Director of National Drug Control Policy.

(3) Not later than February 1 of 1990 and 1991, the Secretary of Defense shall submit to Congress a report on the drug interdiction and counter-drug activities of the Department of Defense under chapter 18 of title 10,[31] United States Code, and other applicable provisions of law during the preceding fiscal year. The report shall include—

(A) specific information as to the size, scope, and results of Department of Defense drug interdiction operations;

(B) specific information on the nature and terms of interagency agreements with other agencies relating to drug interdiction; and

(C) any recommendations for additional legislation that the Secretary determines would assist in furthering the ability of the Department to perform its mission under that chapter or to assist other agencies.

SEC. 1214. SENSE OF CONGRESS ON NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

(a) FINDINGS.—Congress finds the following:

(1) The Anti-Drug Abuse Act of 1988 (Public Law 100–690) terminated the National Narcotics Border Interdiction System (NNBIS).

[31] Sec. 1484(h)(8) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1718), inserted "of title 10" here.

(2) The National Narcotics Border Interdiction System provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in the National Narcotics Border Interdiction System should, to the extent possible, be continued and enhanced by the President.

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TITLE XVI—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

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SEC. 1606. THREE-MONTH[32] DELAY IN ANY CHANGE IN POLICY RESPECTING REIMBURSEMENT OF DEPARTMENT OF DEFENSE FUNDS FOR SALARIES OF MEMBERS OF THE ARMED FORCES ASSIGNED TO DUTY IN CONNECTION WITH FOREIGN MILITARY SALES PROGRAMS

(a) THREE-MONTH[32] DELAY.—Charges for administrative services calculated under section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e))[33] in connection with the sale of defense articles or defense services may not exclude recovery of administrative expenses incurred by the Department of Defense before January 1, 1990,[32] that are attributable to salaries of members of the Armed Forces if the recovery of such administrative expenses would have been allowed under the law in effect on September 30, 1989. Reimbursement of Department of Defense military personnel appropriation accounts for the value of services provided during the first quarter of fiscal year 1990[32] in connection with the sale of defense articles or defense services may not be denied or limited except to the extent permitted under the law in effect on September 30, 1989.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

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PART C—TECHNICAL CORRECTIONS AND GENERAL TECHNICAL AND CLERICAL AMENDMENTS

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[32] Sec. 9104(d) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), amended this section by 1) striking out "one-year" and inserting in lieu thereof "three-month"; 2) striking out "October 1, 1990" and inserting in lieu thereof "January 1, 1990"; and 3) striking out "fiscal year 1990" and inserting in lieu thereof "the first quarter of fiscal year 1990".

[33] For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

SEC. 1624. REPORT ON RECURRING PROVISIONS OF DEFENSE APPROPRIATIONS ACT

(a) REPORT.—Not later than April 1, 1990, the Secretary of Defense shall submit to the defense committees of Congress a report on recurring provisions of law enacted in the General Provisions title of the Department of Defense Appropriations Act, 1990.

(b) MATTERS TO BE INCLUDED.—With respect to each provision covered by the report, the report shall indicate the following:

(1) When the provision (or a substantially similar provision) was first included in an annual Department of Defense Appropriations Act.

(2) The original policy reason (as nearly as the Secretary can determine) for the inclusion of such a provision.

(3) The Secretary's assessment as to whether that reason still pertains and whether there are additional policy reasons for the continuing inclusion of the provision in annual Acts making appropriations for the Department of Defense.

(4) The Secretary's recommendation as to whether the policy of that provision should continue to be provided by law and, if the recommendation is that the policy should not continue to be provided by law, a detailed statement of the reasons for such recommendation.

(5) In the case of each provision which the Secretary recommends under paragraph (4) should continue to be provided by law, the recommendation of the Secretary as to whether such provision should continue to be included in annual Acts making appropriations for the Department of Defense or whether it would be desirable for Congress to enact such provision as permanent law and, if the recommendation is that the policy should not be enacted as permanent law, a detailed statement of the reasons for such recommendation.

(c) DRAFT OF PROPOSED LEGISLATION.—The report shall include a draft of proposed legislation for the codification into title 10, United States Code, or other appropriate statutes of those provisions covered by the report which the Secretary recommends (under subsection (b)(5)) would be desirable for Congress to enact as permanent law.

(d) UPDATE OF EARLIER REPORT.—The report shall be an update of the report submitted by the General Counsel of the Department of Defense pursuant to section 1267 of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 705).

(e) DEFINITIONS.—For purposes of this section:

(1) The term "defense committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[34]

(2) The term "recurring provision" means a provision of an appropriations Act which (1) is not permanent law, and (2) has been enacted in substantially the same form in previous Acts making appropriations for the same purpose.

[34] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

PART D—MISCELLANEOUS

SEC. 1631. STUDY OF PROTECTION OF UNITED STATES CIVIL AVIATION FROM TERRORIST ACTIVITIES OVERSEAS

(a) STUDY.—The Secretary of Defense shall conduct a study on the feasibility and desirability of the United States, at the request of a foreign government, deploying military personnel or providing military equipment in areas under the jurisdiction of that government to assist that government in the protection of United States civil aviation interests from terrorist activity. The study should also undertake to determine what programs of the Department of Defense (1) have application to enhancing civil aviation security, and (2) could be quickly adopted by the Federal Aviation Administration for that purpose.

(b) RESEARCH AND DEVELOPMENT MATTERS TO BE STUDIED.—The study shall include a review of United States Government programs concerning research and development in areas relating to explosives detection, terrorist identification, and anti-terrorist operations.

(c) INTERAGENCY COORDINATION.—The study shall be conducted in consultation with the Secretary of State and the Administrator of the Federal Aviation Administration.

(d) SUBMISSION OF REPORT.—The Secretary shall submit to Congress a report on the study (including the Secretary's findings, conclusions, and recommendations) within six months after the date of enactment of this Act.

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SEC. 1638. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING KIDNAPPING AND MURDER OF LIEUTENANT COLONEL HIGGINS

(a) FINDINGS.—Congress makes the following findings:

(1) The radical, Lebanese-based terrorist organization which calls itself the "Organization of the Oppressed of the Earth" announced on July 31, 1989, that it had executed Lieutenant Colonel William R. Higgins, a United States Marine assigned for service with the United Nations in the U.N. Truce Supervision Organization (UNTSO), who was kidnapped in southern Lebanon on February 17, 1988.

(2) That organization claimed to have executed Lieutenant Colonel Higgins in response to the capture on July 28, 1989, by Israeli commandos of a radical Muslim Shiite leader, Sheik Abdul Karim Obeid, believed to be associated with that organization.

(3) That organization released to certain news agencies a videotape showing Lieutenant Colonel Higgins killed by hanging, though many forensic experts believe the videotape indicates that the person shown did not die from hanging.

(4) The kidnapping of Lieutenant Colonel Higgins, who was engaged only in carrying out the legitimate United Nations peacekeeping activities to which he had been assigned, was wholly unjustified.

(5) It is absolutely clear that the kidnapping and the murder of Lieutenant Colonel Higgins were outrageous acts of terrorism that deserve the condemnation of all civilized people.

(6) There is strong evidence that the Government of Iran has supported the organization responsible for Lieutenant Colonel Higgins' kidnapping and murder, as well as other terrorist and extremist forces inside Lebanon and throughout the Middle East.

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

(1) Congress is outraged by the kidnapping and murder of Lieutenant Colonel Higgins and condemns those actions as barbaric, cowardly, and utterly incompatible with the standards of conduct upheld by civilized people;

(2) the President should use all available resources of the United States Government, including diplomatic and intelligence channels, to determine the identity of those persons responsible for the kidnapping and murder and the details regarding those terrorist acts;

(3) the President should determine whether it would be possible to identify and bring to justice, or to retaliate against, those persons responsible for the kidnapping and murder in a manner consistent with United States and international legal requirements that would reduce the risk to Americans from terrorism;

(4) the President should take strong and decisive action, possibly including the use of military force, to prevent or respond to acts of international terrorism. Such actions should be taken in concert with other nations where practicable, but the President should be prepared to act unilaterally, if necessary;

(5) the United States should make clear to the new leadership in Iran (A) that the United States will not tolerate a continuation of past policies of support of groups which undertake terrorist actions against American citizens or direct assaults on American vital interests in the Middle East or elsewhere, and (B) that if such support should continue, the United States will hold the authorities in Iran accountable for that support and act accordingly;

(6) the Secretary General of the United Nations should take all necessary steps to help ensure that the body of Lieutenant Colonel Higgins is returned to his country and family and that those responsible for his kidnapping and murder are immediately brought to justice;

(7) the President should engage in urgent and continuing diplomatic contacts with all other governments concerning their policies and actions which might have relevance to the interests of the United States Government or increase the vulnerability of the United States citizens to attacks by terrorists; and

(8) the President should continue to consult with other nations to ensure international cooperation and coordination to end terrorist attacks.

SEC. 1639. REPORTS ON CONTROLS ON TRANSFER OF MISSILE TECHNOLOGY AND CERTAIN WEAPONS TO OTHER NATIONS

(a) * * *

(b) REPORT ON MANPOWER REQUIRED TO IMPLEMENT EXPORT CONTROLS ON CERTAIN WEAPONS TRANSFERS.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit to Con-

gress a report relating to Department of Defense manpower required to implement export controls on certain weapons transfers. In the report, the Secretary shall—

(A) identify the role of the Department of Defense in implementing export controls on nuclear, chemical, and biological weapons;

(B) describe the number and skills of personnel currently available in the Department of Defense to perform such role; and

(C) assess the adequacy of the level of personnel resources described in subparagraph (B) for the effective performance of such role.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel, and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following activities of the Department in implementing export controls on nuclear, chemical, and biological weapons:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to implementing export controls on nuclear, chemical, and biological weapons.

(c) REPORT ON MISSILE TECHNOLOGY CONTROL REGIME ENFORCEMENT.—(1) The Secretary of Defense shall include in the report under subsection (b) information concerning the Missile Technology Control Regime (MTCR). In the report, the Secretary shall review the existing regulations covering the issues addressed by the MTCR and shall assess whether those regulations—

(A) appropriately cover each item listed in the MTCR annex; and

(B) sufficiently stress consideration of ultimate end use of an item as a factor in issuance of export licenses with respect to that item.

(2) In the report, the Secretary shall also assess whether, in the case of a request for an export license involving a country that is considered to be a suspect country for purposes of the regime, or involving a commodity that is considered to be a suspect commodity for purposes of the regime, sufficient information on that request is brought to the attention of the Department of Defense before such a license is issued and, if not, what measures could be taken to improve Department of Defense oversight of the issuance of export licenses in such cases.

(3) In the report, the Secretary may also address whatever other initiatives for the enforcement of the regime the Secretary considers would help strengthen the regime.

SEC. 1640. REVIEWS AND REPORTS ON DECONTROL OF CERTAIN PERSONAL COMPUTERS

(a) REVIEWS.—The Secretary of Defense and the Secretary of Commerce shall each conduct an independent review on the foreign availability of the personal computers known as AT-compatible microcomputers. Each Secretary, in conducting his review, shall, at a minimum, determine the availability of such microcomputers from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers. The Secretary of Defense, in conducting his review, also shall assess the military significance of such microcomputers for the Soviet Union and its Warsaw Pact allies.

(b) REPORTS.—The Secretary of Defense and the Secretary of Commerce shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Armed Services of the Senate and House of Representatives [35] a report containing the results of the respective reviews required by subsection (a).

(c) DEADLINE FOR REPORTS.—The reports required by subsection (b) shall be submitted not later than January 1, 1990.

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[35] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

o. Department of Defense Appropriations Act, 1991

Partial text of Public Law 101–511 [H.R. 5803], 104 Stat. 1856, approved November 5, 1990; amended by Public Law 102–172 [Department of Defense Appropriations Act, 1992; H.R. 2521], 105 Stat. 1150, approved November 26, 1991; and by Public Law 102–190 [National Defense Authorization for Fiscal Years 1992 and 1993; H.R. 2100], 105 Stat. 1290, approved December 5, 1991

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE VIII

GENERAL PROVISIONS

* * * * * * *

(INCLUDING TRANSFER OF FUNDS)

SEC. 8104.[1] **SECTION 1.** This section establishes the National Commission on Defense and National Security.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce a world more dangerous than we have faced in the past.

(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

[1] 50 U.S.C. 401 note.

(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as National Commission on Defense and National Security (hereinafter in this Act referred to as the "Commission"). The Commission is established until 30 days following submission of the final report required by section 6 of this section.[2]

SEC. 4. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

(A) the developments in Eastern Europe and the Soviet Union;

(B) the question of German unification;

(C) the future of NATO and European economic integration;

(D) the future of the Pacific Basin; and

(E) potential instability resulting from regional conflicts or economic problems in the developing world.

(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

[2] The second sentence was added by sec. 8078(1) of Public Law 102–172 (105 Stat. 1190).

(1) Three appointed by the President.

(2) Three appointed by the Speaker of the House of Representatives.

(3) One appointed by the minority leader of the House of Representatives.

(4) Two appointed by the majority leader of the Senate.

(5) One appointed by the minority leader of the Senate.

(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) BASIC PAY.—Members of the Commission shall serve without pay.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 6. REPORTS.

(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

(b)[3] FINAL REPORT.—The Commission shall transmit to the President and to Congress a final report one year following[4] submission of the initial report under subsection (a).

(c) CONTENTS OF REPORTS.—The report under subsection (b)[5] shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Such[5] report shall include a comprehensive description and discussion of the matters set forth in section 4.

(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

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[3] Sec. 8078(2)(i)(A) of Public Law 102–172 (105 Stat. 1190) struck out "Subsequent Annual Reports" and inserted in lieu thereof "Final Report".

[4] Sec. 8078(2)(i)(B) of Public Law 102–172 (105 Stat. 1190) struck out "an annual report for each of the first five years following the" and inserted in lieu thereof "a final report one year following". Sec. 8078(2)(C) struck out a second sentence in subsec. (b), which had read: "Each such report shall update the previous report under this section."

[5] Sec. 8078(2)(ii)(A) of Public Law 102–172 (105 Stat. 1190) struck out "Each report under this section" and inserted in lieu thereof "The report under subsection (b)" in the first sentence. Sec. 8078(2)(ii)(B) struck out "Each such" and inserted in lieu thereof "such" in the second sentence.

(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–18 of the General Schedule.

(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 8. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c)[6] OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Commission may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimburs-

[6] Sec. 8078(3) of Public Law 102–172 (105 Stat. 1190) amended and restated subsec. (c).

able basis such administrative support services as the Commission may request.

SEC. 9. INITIAL FUNDING OF COMMISSION.

If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.

SEC. 8105.[7] CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN.—

(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately[8] informs Congress of the waiver and the reasons for the waiver.[9]

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[7] 10 U.S.C. 113 note. See also sec. 1455 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1695).

[8] Sec. 1063(b) of Public Law 102–190 (105 Stat. 1476) corrected the spelling of "immediately".

[9] In a memorandum of May 14, 1991, for the Secretary of Defense, the President stated: "Consistent with section 8105(d)(2) of the Department of Defense Appropriation Act, 1991 (Public Law 101–511; 104 Stat. 1856), I hereby waive the limitation in section 8105(b) which states that the end strength level for each fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year, and declare that it is in the national interest to do so." (56 F.R. 23991; May 28, 1991).

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

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This Act may be cited as the "Department of Defense Appropriations Act, 1991".

p. National Defense Authorization Act, Fiscal Year 1989

Partial text of Public Law 100–456 [H.R. 4481], 102 Stat. 1918, approved September 29, 1988; as amended by Public Law 100–463 [Department of Defense Appropriations Act, Fiscal Year 1989; H.R. 4781], 102 Stat. 2270, approved October 1, 1988; Public Law 100–526 [Defense Authorization Amendments and Base Closure and Realignment Act, S. 2749], 102 Stat. 2623, approved October 24, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991, H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act, Fiscal Year 1989".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is organized into two divisions as follows:

(1) Division A—Department of Defense and other National Defense Authorizations.

(2) Division B—Military Construction Authorizations.

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SEC. 4. STATUTORY CONSTRUCTION

(a) ORDER OF ENACTMENT WITH APPROPRIATIONS ACT.—In applying any rule of statutory construction, the provisions of this Act shall be deemed to have been enacted before the provisions of the Department of Defense Appropriations Act, 1989, (regardless of the actual dates of enactment concerned).[1]

(b) TERMINATION OF REFERENCED AUTHORIZATION PROVISION.—If this Act is enacted after the Department of Defense Appropriations Act, 1989—

(1) section 10001 of that Act shall cease to be effective upon the enactment of this Act; and

(2) subject to subsection (a), this Act shall be deemed for all purposes to have been enacted on the date of the enactment of such Act.

[1] The Department of Defense Appropriations Act, 1989, was enacted October 1, 1989.

DIVISION A—DEPARTMENT OF DEFENSE AND OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

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SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of $179,500,000, of which—

(1) $44,300,000 is for procurement;

(2) $17,900,000 is for research, development, test, and evaluation; and

(3) $117,300,000 is for operation and maintenance.

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PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

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SEC. 116. BIGEYE BINARY CHEMICAL BOMB

(a) AUTHORIZED PROCUREMENT FOR TESTING.—(1) Except as provided in paragraph (2), funds appropriated or otherwise made available to the Department of Defense for fiscal years before fiscal year 1989 for procurement under the BIGEYE binary chemical bomb program may be obligated or expended in connection with such program only for procurement of production-configured bombs. Any bombs procured under the preceding sentence may be used only in conducting required follow-on operational testing scheduled to be performed during fiscal years 1989 and 1990.

(2) Any such funds not obligated for the purpose described in paragraph (1) may be used for the purpose of maintaining program continuity for the BIGEYE bomb program.

(3) None of the funds referred to in paragraphs (1) and (2) may be used for low-rate initial production.

(b) CONDITIONS FOR OBLIGATION OF FUNDS FOR PROCUREMENT.—Except as provided in subsection (f), funds appropriated or otherwise made available to the Department of Defense after the date of the enactment of this Act may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, or for any component of such bomb or the assembly of such bomb, until the reports required by subsections (c) and (d) have been submitted in accordance with those subsections and only then if neither of those reports includes a certification that one or more of the production certification conditions has not been met.

(c) CERTIFICATION BY DIRECTOR, OT&E.—Upon the completion of operational and developmental tests conducted in connection with the BIGEYE binary chemical bomb program, the Director of Operational Test and Evaluation of the Department of Defense shall submit to Congress a report certifying, with respect to each of the

production certification conditions, whether or not, in the judgment of the Director, such condition has been met.

(d) CERTIFICATION BY COMPTROLLER GENERAL.—Upon the submission of the report under subsection (c), the Comptroller General of the United States shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Comptroller General, such condition has been met.

(e) PRODUCTION CERTIFICATION CONDITIONS.—For purposes of this section, the term "production certification conditions" means, with respect to the operational and developmental tests of the BIGEYE bomb, each of the following:

(1) That the operational and developmental tests conducted in connection with such program after the date of the enactment of this Act were realistic and adequate.

(2) That the plan and objectives for those tests were clear, well defined, and properly quantifiable.

(3) That the design of those tests supports a valid statistical analysis of data.

(4) That the criteria for a no-test were adequately defined in the plan for those tests.

(5) That the performance of such bomb in those tests met or exceeded the standards established for the tests.

(6) That the BIGEYE bomb program is otherwise ready to proceed into full-scale production.

(f) FISCAL YEAR 1989 AUTHORIZED ACTIVITIES.—Of amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1989, $15,000,000 may be obligated or expended for procurement for the BIGEYE program without regard to the limitations contained elsewhere in this section, but only for the purposes of maintaining program continuity, maintaining the subcontractor base, and procuring piece parts and components. Such funds may not be obligated or expended for low-rate initial production or for final assembly.

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SEC. 118.[2] MODIFICATIONS IN CHEMICAL DEMILITARIZATION PROGRAM * * *

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

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SEC. 208. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the amounts appropriated pursuant to section 201, $6,800,000 shall be available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Con-

[2] Sec. 118 amended sec. 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 583).

vention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

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PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

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SEC. 216. PROHIBITION ON OBLIGATION OF FUNDS FOR CANCELLED ANTISATELLITE WEAPON PROGRAM

(a) PROHIBITION.—Residual fiscal year 1988 ASAT funds may not be obligated for the ASAT program.

(b) RESIDUAL FISCAL YEAR 1988 ASAT FUNDS DEFINED.—For purposes of this section, the term "residual fiscal year 1988 ASAT funds" means funds in the amount of $16,000,000 which were appropriated to the Department of Defense for fiscal year 1988 for research, development, test, and evaluation for the Air Force which—

(1) were originally made available for the ASAT program; and

(2) which remain available for obligation following cancellation of that program by the Secretary of Defense.

(c) ASAT PROGRAM DEFINED.—For purposes of subsections (a) and (b), the term "ASAT program" means the program of the Air Force to develop an F–15 launched miniature homing vehicle antisatellite weapon.

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PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1989

(a) AMOUNTS AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test and evaluation for fiscal year 1989, not more than $3,738,000,000 may be obligated for the Strategic Defense Initiative.

(b) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to or for the use of the Department of Defense for fiscal year 1989 may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

(c) REPORT BY SECRETARY OF DEFENSE.—Before the adjournment sine die of the second session of the One-Hundredth Congress, the Secretary of Defense shall submit to the Committees on Armed Services[3] and the Committees on Appropriations of the Senate and House of Representatives a report on the Space-Based Interceptor (SBI) program of the Strategic Defense Initiative. The report shall include a discussion of the following matters with respect to the SBI program:

(1) Role of SBI in the Phase One architecture.

(2) SBI performance in the current system concept.

(3) SBI cost projections.

[3] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(4) Technology progress and plans.
(5) Launch requirements.
(6) Other programmatic details.

SEC. 222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services[4] and the Committees on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 223. DEVELOPMENT AND TESTING OF ANTIBALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of antiballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 1201 of this Act.

(b) DEFINITION.—As used in this section, the term "March 1988 SDIO Report" means the report entitled, "Report to Congress on the Strategic Defense Initiative", dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 10 U.S.C. 2431 note).

SEC. 224. ACCIDENTAL LAUNCH PROTECTION

(a) FINDINGS.—Congress makes the following findings:

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[4] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(1) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(2) The Soviet Union has deployed approximately 1,400 land-based intercontinental ballistic missiles and approximately 900 sea-based ballistic missiles.

(3) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(4) Proliferation of ballistic missile technology, such as the action of the People's Republic of China in providing ballistic missiles to Saudi Arabia, raises the possibility of future nuclear threats.

(b)[5] SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c)[5] REPORT.—Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the status of planning for development of a deployment option for such an accidental launch protection system.

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PART E—OTHER PROGRAMS

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SEC. 243. REPORT ON SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives[6] a comprehensive report on space control capabilities of the Armed Forces.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Chairman of the Joint Chiefs of Staff and transmitted to the commander of the United States Space Command.

[5] Sec. 1005(b) and (c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1542), reaffirmed this sense of the Congress and required the same report as subsec. (c).

[6] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(2) A net assessment of the space control capabilities of the United States and the Soviet Union.

(3) An assessment of current deficiencies in United States space control capabilities and recommendations for overcoming those deficiencies.

(4) A 5-year plan for improving ground- and space-based surveillance systems and their associated command, control, and communications systems and the cost and schedule for implementing the plan.

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

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SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—The amount authorized in section 301[7] for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical means available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

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[7] Sec. 301 of this Act authorized $13,000,000 for humanitarian assistance. Sec. 301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1352), authorized $13,000,000 for humanitarian assistance, and sec. 304 reiterated this section and required the Secretary of Defense to annually report on the provision of humanitarian assistance under this law.

(f)[8] REPORTS.— * * * [Repealed—1989]

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PART B—LIMITATIONS

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SEC. 313.[9] PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

(a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 314. LIMITATION ON FUNDING FOR UNITED STATES SOUTHERN COMMAND AIRLIFT

Funds appropriated for operation and maintenance for the Air Force for fiscal year 1989 may not be obligated or expended in connection with any contract for aircraft with short takeoff and landing capability until—

(1) the Secretary of Defense approves a requirements document and an acquisition plan, including costs and schedule information, for an aircraft with short takeoff and landing capability for the United States Southern Command; and

(2) the Secretary of Defense submits both the document and the plan to the Committees on Armed Services of the Senate and the House of Representatives.[10]

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TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

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PART B—DEFENSE INDUSTRIAL BASE

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SEC. 825. DEPARTMENT OF DEFENSE OFFSET POLICY

(a)[11] FINDINGS.—Congress makes the following findings:

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[8] Sec. 304(f)(5) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1410) repealed subsec. (f), which had required the Secretary of Defense to submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives several reports on the funds obligated for humanitarian relief under various humanitarian relief laws. Similar reports are now required by sec. 303 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1525).

[9] 50 U.S.C. app. 2410a note.

[10] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[11] 10 U.S.C. 2505 note.

(1) Many contracts entered into by United States firms for the supply of weapon systems or defense-related items to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", are a component of international trade and could have an impact on United States defense industry opportunities in domestic and foreign markets.

(2) Some United States contractors and subcontractors may be adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the trade policies of the countries of such firms can give foreign firms a competitive advantage against United States firms in world markets for products using such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement may increase the cost of the defense equipment to the purchasing country and may reduce the amount of defense equipment that a country may purchase.

(6) The exporting of defense equipment produced in the United States is important to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) AMENDMENT TO TITLE 10.[12] * * *

(c)[13] NEGOTIATIONS.—(1) The President shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The negotiations should be conducted with a view to achieving an agreement with the countries concerned that would limit the adverse effects that such arrangements have on the defense industrial base of each such country. Every effort shall be made to achieve such agreements within two years after September 29, 1988;[14]

(2)[14] In the negotiation or renegotiation of any memorandum of understanding between the United States and one or more foreign

[12] Sec. 825(b) added a new sec. 2505 to title 10, U.S.C., concerning U.S. defense technology transfer and notifications.

[13] 10 U.S.C. 2505 note.

[14] Sec. 816 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1501) amended sec. 825(c) by transferring the text of para. (2) to the end of para. (1); by striking "the date of the enactment of this Act." at the end of that sentence and inserting in lieu thereof "September 29, 1988"; and by inserting a new para. (2).

countries relating to the reciprocal procurement of defense equipment and supplies or research and development, the President shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States.

(d) REPORTS.—(1) Not later than November 15, 1988, the President shall submit to Congress a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems or defense-related items to foreign countries or foreign firms. Such report shall include, at a minimum, the following:

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2).

(2) Not later than March 15, 1990, the President shall transmit to Congress a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in connection with the purchase of defense equipment or supplies in favor of such country. The report shall include a discussion of the following possible actions:

(A) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(B) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(C) A reduction in assistance furnished such foreign country by the United States.

(D) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in subparagraph (A) to be effective.

(3) The President shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in subsection (c). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(4) In this subsection, the terms "United States firm" and "foreign firm" have the same meanings as are provided in section 2505(d) of title 10, United States Code, as added by subsection (b).

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TITLE IX—MATTERS RELATING TO ARMS CONTROL [15]

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TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

SEC. 1001. INCREASE IN ANNUAL DOLLAR LIMITATION ON ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES * * *

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SEC. 1002.[16] AUTHORITY TO WAIVE SURCHARGES ON CERTAIN SALES TO NORTH ATLANTIC TREATY ORGANIZATION * * *

SEC. 1003.[17] AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM CERTAIN ALLIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES * * *

SEC. 1004.[18] SENSE OF CONGRESS ON NEED FOR MODERNIZATION OF THEATER NUCLEAR CAPABILITIES OF NATO

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the North Atlantic Treaty Organization (NATO) alliance will continue for the foreseeable future to rely on a modern and credible nuclear deterrent.

(2) NATO should make every effort to achieve the goal of raising the threshold for the use of nuclear weapons in the event of a conflict in Europe.

(3) While recognizing that there is a critical need for improvements in conventional forces, Congress also recognizes that the United States will have to devote defense resources in the future to the continuing modernization of the theater nuclear capabilities of NATO.

(4) The modernization of the theater nuclear capabilities of NATO is a continuing process and stems from the 1983

[15] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec F.

[16] Sec. 1002 amended sec. 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)). For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[17] Sec. 1003 amended chapter 6 of the Arms Export Control Act (22 U.S.C. 2796c). For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[18] 22 U.S.C. 1928 note.

Montebello decision by NATO to reduce the stockpile of nuclear weapons in Europe while taking steps to ensure that the remaining nuclear weapons of the alliance are responsive, survivable, and effective.

(5) Programs to modernize theater nuclear forces, which had a high priority for NATO before the ratification of the Intermediate-range Nuclear Forces (INF) Treaty, are at least as important following the ratification of that treaty in May 1988.

(6) The NATO Nuclear Planning Group recently reaffirmed its endorsement of development by the United States of a new missile for delivery of theater nuclear weapons as a follow-on to the current Lance missile, with a view toward an eventual decision on deployment of such a follow-on missile.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) modernization of the theater nuclear capabilities of the North Atlantic Treaty Organization is essential to the deterrence strategy of the NATO alliance, particularly in light of the requirements of the Intermediate-range Nuclear Forces (INF) Treaty for the destruction of intermediate-range nuclear weapons;

(2) continued modernization by the United States of theater nuclear capabilities should be undertaken in close consultation with other NATO member nations; and

(3) the United States should proceed with ongoing activities to meet the identified requirement of the NATO alliance for development of a new missile for delivery of theater nuclear weapons as a follow-on to the Lance missile.

SEC. 1005. REPORT ON NATO DEFENSE PROGRAM FOR FISCAL YEAR 1990

(a) REPORT.—The Secretary of Defense shall submit to Congress a report setting forth in detail the programs of the Department of Defense in support of the North Atlantic Treaty Organization (referred to as the "NATO Defense Program") for fiscal year 1990. The report shall include—

(1) an identification of each such program by program element; and

(2) a description of each such program and the level of funding requested by the President for each such program in the budget for fiscal year 1990.

(b) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted in conjunction with the submission to Congress of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

SEC. 1006.[19] IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.

[19] 10 U.S.C. 133 note.

SEC. 1007.[20] MODIFICATION OF REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES * * *

SEC. 1008. CALL FOR CONTINUED DEFENSE BURDENSHARING DISCUSSIONS WITH ALLIES

It is the sense of Congress that the President should continue the discussions (called for by Congress in section 1254(b)(1) of Public Law 100–204) with countries which participate in mutual defense alliances with the United States, especially the member nations of the North Atlantic Treaty Organization and Japan, for the purpose of reaching an agreement for a more equitable distribution of the burden of financial support for the alliances.

SEC. 1009. CONTRIBUTIONS BY JAPAN TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) As noted by Congress in section 1012(a)(1) of Public Law 100–180 and in section 812(a)(1) of Public Law 99–93,[21] the alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and the economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the Government of Japan, in actions welcomed by the United States—

(A) continues to fulfill the pledge made by the Prime Minister of Japan in May 1981 to develop the capabilities to defend the territory of Japan and the airspace and sealanes around Japan to a distance of 1,000 nautical miles by 1990,

(B) has increased the amount of assistance provided to other countries during fiscal year 1988 by 6.5 percent over the amount of such assistance provided during fiscal year 1987, and

(C) is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the security of the leading industrialized democracies by increasing spending for its Official Development Assistance program in the manner described by Congress in section 1012(b) of Public Law 100–180.

(4) The failure of the United States and Japan to agree on the appropriate level of the contribution by Japan to maintaining the security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b)[22] ANNUAL REPORT.—The Secretary of Defense shall include with the annual report submitted pursuant to section 1003 of Public Law 98–525 (22 U.S.C. 1928 note) a report on the Official Devel-

[20] Sec. 1007 amended sec. 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a). Sec. 1105 was repealed in 1989.

[21] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. D.

[22] 22 U.S.C. 1928 note.

opment Assistance program of the Government of Japan. Such report shall be prepared each year in coordination with the Secretary of State and the Administrator of the Agency for International Development and shall include a description of the amount and nature of spending under such program by recipient, including distinguishing between grant aid, loans, and credits.

(c) POLICY ON DISCUSSIONS WITH JAPAN.—It is the sense of Congress that in the discussions with Japan referred to in section 1008 for the purpose of reaching a more equitable distribution of the burden of financial support for the security of the leading industrialized democracies, the objective of such discussions should include the establishment of a schedule for increases in spending under Japan's Official Development Assistance program and its defense programs so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the progress of the discussions described in subsection (c) with respect to Japan.

(e) FURTHER CONGRESSIONAL ACTION.—It is the sense of Congress that if, in the judgment of Congress, the report of the President under subsection (d) does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the security of the leading industrialized democracies, Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and should consider whether additional legislation is appropriate.

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101.[23] ANNUAL GUIDELINES TO THE MILITARY DEPARTMENTS * * *

SEC. 1102.[24] LEAD AGENCY FOR DETECTION * * * [Repealed—1989]

SEC. 1103.[25] COMMUNICATIONS NETWORK * * * [Repealed—1989]

SEC. 1104.[26] ENHANCED DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT BY THE DEPARTMENT OF DEFENSE * * *

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SEC. 1107. REPORTS

(a) PROPOSALS.—Not later than December 1, 1988, the President shall submit to Congress a report containing—

[23] Sec. 1101 amended sec. 113 of title 10, United States Code, by adding to the end a new subsec. (l).

[24] Sec. 1202 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1563) inserted a new sec. 124 to title 10, U.S.C., titled "Detection and Monitoring of aerial and maritime transit of illegal drugs; Department of Defense to be lead agency", and repealed sec. 1102.

[25] Sec. 1204 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564) repealed sec. 1103.

[26] Sec. 1104 amended chapter 18 of 10 U.S.C., secs. 371–380.

(1) legislative proposals to enhance the capability of the Department of Defense to perform the functions provided for in this title and in the amendments made by this title; and

(2) estimates of the amounts necessary to carry out such proposals.

(b) RADAR COVERAGE AND SOUTHERN BORDER.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives[27] a report assessing the potential effect on drug interdiction and on the drug abuse problem in the United States of—

(A) carrying out radar coverage along the southern border of the United States; and

(B) pursuing drug smugglers detected by such radar coverage with rotor-wing and fixed-wing aircraft of the Department of Defense and of civilian law enforcement agencies.

(2) The President shall include in such report an assessment of the relative effectiveness—

(A) of carrying out the operations described in clauses (A) and (B) of paragraph (1) on a full-time basis;

(B) of carrying out such operations only during the hours of darkness; and

(C) the feasibility and cost of carrying out such operations under each of the conditions specified in clauses (A) and (B).

(3) The report under paragraph (1) shall be submitted not later than 30 days after the date of the enactment of this Act.

(c) PURSUIT BY AIRCRAFT.—(1) Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives[28] a report containing the following information:

(A) The total number of times suspected drug smugglers flying aircraft into the United States have been pursued by aircraft operated by or with the support of personnel of the Department of Defense under the authority of section 374(c)(2)(B) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to such committees a report containing the following information:

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[27] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[28] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(A) The total number of times suspected drug smugglers described in paragraph (1) have been pursued into the United States by aircraft operated by or with the support of Department of Defense personnel under the authority of section 374(b)(2)(C) of title 10, as amended by section 1104.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(D) Such other information and such recommendations as the Secretary considers appropriate regarding the use of Department of Defense personnel for purposes authorized in section 374(b) of title 10, United States Code, as amended by section 1104.

TITLE XII—GENERAL PROVISIONS

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PART D—MISCELLANEOUS

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SEC. 1232.[29] REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE * * * [Repealed—1993]

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TITLE XIII—FOREIGN RELATIONS MATTERS

SEC. 1301. SENSE OF CONGRESS CONCERNING THE PANAMA CANAL AND THE UNITED STATES SOUTHERN COMMAND

(a) FINDINGS.—The Congress finds that—

(1) the security of, and the free flow of shipping through, the Panama Canal are vital interests of the United States; and

(2) the continued ability of the United States Southern Command (which currently has its headquarters in the Republic of Panama) to carry out assigned missions, especially the mission of defense of the Panama Canal, is essential to protecting and promoting the interests of the United States.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should take all steps necessary to ensure the continued ability of the United States Southern Command (or any successor command) to carry out assigned missions, especially the mission of defense of the Panama Canal.

[29] Repealed by sec. 502(d) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2326).

SEC. 1302.[30] LIMITATION ON ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) LIMITATION.—The President may not use any funds appropriated to or for the use of any department, agency, or other entity of the United States for the purpose of providing assistance to the Panamanian Defense Force. The limitation in the preceding sentence shall cease to apply upon the submission by the President to Congress of a certification by the President—

(1) that no armed forces of the Soviet Union, the Republic of Cuba, or the Republic of Nicaragua are present in the Republic of Panama (other than military attaches accredited to the Republic of Panama); and

(2) that General Manuel Noriega has relinquished command of the Panamanian Defense Force and no longer holds any official position of leadership (either military or civilian) in the Republic of Panama.

(b) CLARIFICATION.—Subsection (a) does not prohibit the President from obligating or expending any funds necessary for—

(1) the defense of the Panama Canal,

(2) the collection of intelligence,

(3) the maintenance of United States Armed Forces in the Republic of Panama, or

(4) the protection of United States interests in the Republic of Panama.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report, in both classified and unclassified form, indicating—

(1) whether (and to what extent) military, paramilitary, or intelligence personnel of the Soviet Union, Cuba, or Nicaragua are present in the Republic of Panama; and

(2) whether (and to what extent) the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, any such personnel.

SEC. 1303. SENSE OF CONGRESS CONCERNING INDICTMENT OF GENERAL NORIEGA OF PANAMA ON DRUG-RELATED CHARGES

(a) FINDINGS.—The Congress finds that—

(1) General Manuel Noriega, the commander of the Panamanian Defense Force, was indicted on February 5, 1988, in the United States District Courts for the Southern District and for the Middle District of Florida on a number of serious drug-related charges against the laws of the United States, including charges involving trafficking in illegal drugs, protecting and supporting drug traffickers, and laundering of drug-related money; and

(2) there have been reports in the news media and from other sources that discussions between officials of the United States and General Noriega may have occurred concerning arrangements under which General Noriega would give up political power and leave the Republic of Panama in exchange for which the United States would file a motion to dismiss the indictments referred to in paragraph (1).

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

[30] 22 U.S.C. 2151 note.

(1) that the United States should not conduct or authorize any negotiations or discussions, and should not make any arrangements, with General Manuel Noriega which would involve any effort by the United States to dismiss the indictments referred to in subsection (a)(1); and

(2) that any such negotiation, discussion, or arrangement—

(A) would be incompatible with the high priority that the United States places on the war on drugs;

(B) would not further the prospects for restoring noncorrupt, democratic government to the Republic of Panama; and

(C) would not serve the interests of the United States.

SEC. 1304. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1305. HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF POLAND

(a) FINDINGS.—Congress makes the following findings:

(1) The government of Poland, headed by General Wojciech Jaruzelski, has violated internationally recognized human rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, and the right to due process.

(2) The Jaruzelski government has retaliated against the justified, peaceful protests of workers at Nowa Huta, Poland, through the use of violence and force.

(3) The Jaruzelski government has prosecuted and imprisoned a number of persons for politically related offenses.

(4) The Jaruzelski government has to date refused to take steps which would guarantee the right of the people of Poland to participate in the management of the economy of Poland and has refused to accept the principle of pluralism in the national life of Poland.

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

(1) that the use of force against the workers of Nowa Huta and intimidation against other strikers in Poland should be condemned; and

(2) that improvement in relations between the United States and Poland must be predicated on an improvement in internationally recognized human rights in Poland, including the release of political prisoners, steps toward trade union pluralism and the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

SEC. 1306. CONDITIONS FOR SALE OR OTHER TRANSFER OF F–15 AIRCRAFT TO SAUDI ARABIA

(a) Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F–15 aircraft shall be subject to the following conditions:

(1) Any such F–15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F–15–E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F–15 aircraft at any time, except that additional replacement F–15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies Congress that the existing inventory of F–15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F–15 aircraft is totally removed from the inventory of Saudi Arabia.

(b)[31] The President may waive subsection (a) if the President certifies to Congress that such action is in the national interest.

SEC. 1307. RESTRICTION ON SALE OF DEFENSE ARTICLES TO CERTAIN NATIONS

(a) RESTRICTION.—During fiscal year 1989, the United States may not make any sale of defense articles subject to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)) to any nation which has acquired intermediate-range ballistic missiles made by the People's Republic of China.

(b) PRESIDENTIAL CERTIFICATION.—(1) The restriction in subsection (a) shall cease to apply with respect to any nation which has acquired such missiles upon certification by the President to Congress that that nation does not have chemical, biological, or nuclear warheads for those missiles.

(2) If the President makes a certification under paragraph (1) in the case of any nation, the President shall notify Congress promptly of any evidence that, after the date of such certification, such nation has acquired chemical, biological, or nuclear warheads for those missiles.

SEC. 1308. UNITED STATES BASES IN THE REPUBLIC OF THE PHILIPPINES

(a) CONGRESSIONAL FINDINGS.—Congress makes the following findings:

(1) The United States has maintained military bases in the Philippines since 1947 pursuant to the United States-Philippine Military Bases Agreement and maintained military bases in the Philippines for many years before that under other arrangements.

(2) Clark Air Force Base, Subic Bay Naval Base, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines and contribute to regional and global security.

[31] In a memorandum for the Secretary of State of August 8, 1990 (55 F.R. 32591), the President certified "that it is in the national interest of the United States to waive section 1306(a)".

(3) These installations are also important to the development of democratic institutions and to economic progress in the Western Pacific and Southeast Asia.

(4) The United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos and make a substantial contribution to the Philippine economy.

(5) The Military Bases Agreement as currently in effect has a fixed term lasting until September 16, 1991, after which it continues in effect subject to termination by either party on one year's notice.

(6) Pursuant to a 1979 amendment to that agreement, the President of the United States pledged to the Government of the Republic of the Philippines to undertake "best efforts" to obtain security assistance for the Philippines, and such pledge was reiterated by the President of the United States in 1983 as part of a five-year review of the agreement.

(7) The United States and the Republic of the Philippines are currently engaged in a second five-year review of the Military Bases Agreement.

(8) Officials of the Government of the Republic of the Philippines have indicated to officials of the United States that the United States should significantly increase compensation for the use by the United States of military bases in the Philippines.

(9) The provision of multilateral economic assistance to the Republic of the Philippines should be considered separately from the provision of security assistance by the United States to the Republic of the Philippines in return for United States basing rights in the Philippines.

(b) REPORT ON FACILITIES.—(1) The Secretary of Defense shall submit to Congress a report on the existing United States military facilities in the Republic of the Philippines. The report shall include analysis of the following:

(A) The costs and benefits of maintaining those facilities, including the costs to the United States of the operation and maintenance of those facilities and any other costs associated with those facilities and the economic and social benefits and other benefits of those facilities to the Republic of the Philippines.

(B) Potential alternative locations for those facilities.

(C) The strategic value to the United States of having military facilities located in the Philippines and of having such facilities at the potential alternative locations considered.

(D) The costs and benefits of relocating those facilities to the potential alternative locations, including—

(i) the cost to the United States of operation and maintenance and other costs,

(ii) the economic, social, and other costs to the Philippines, and

(iii) the economic, social, and other benefits to the government and community at each alternative location.

(E) The availability of skilled indigenous personnel at the potential alternative locations and the cost of training such personnel to work at such installations.

(2) The report shall be prepared in consultation with the Secretary of State and shall be submitted to Congress not later than six months after the date of the enactment of this Act.

SEC. 1309.[32] * * * [Repealed—1992]

SEC. 1310. ECONOMIC SANCTIONS AGAINST ETHIOPIA

(a) STATEMENTS OF POLICY.—The Congress—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (through direct representations to the Government of Ethiopia and certain rebel groups and through sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in northern Ethiopia, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Soviet Union in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high priority of the Soviet Union and that the approach of the Soviet Union is consistent with that of the West.

(b) SANCTIONS.—(1) Notwithstanding any other provision of law, the President is authorized to, and is hereby strongly urged to, impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to paragraphs (2) and (3)) if, at any time after the date of the enactment of this Act, the Government of Ethiopia engages in any of the following outrages:

(A) Forced resettlement.

(B) Forced confinement in any resettlement camp.

(C) Diversion of international relief to the military.

(D) Denial of international relief to any persons at risk because of famine.

(E) Seizure of international relief assets provided by the United States.

(F) Prohibition of end-use monitoring of food distribution by international relief personnel.

[32] Sec. 1074 of Public Law 102–484 (106 Stat. 2511) repealed sec. 1309, which required an annual assessment of security at U.S. bases in the Philippines.

(2) In imposing sanctions pursuant to paragraph (1) on imports from Ethiopia, the President shall give priority consideration to those products which constitute major imports from Ethiopia, unless the President determines that sanctions against such products would have an adverse effect on economic interests of the United States.

(3) If a sanction imposed pursuant to paragraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(c) REPORTS TO CONGRESS.—Not more than 15 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the President shall submit to Congress a report stating whether or not, during the 90-day period preceding the date of the report, the Government of Ethiopia engaged in any conduct described in subsection (b). Each such report shall describe the response of the United States to any such conduct.

(d) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanction imposed under this section.

(e) EXPIRATION.—The authority provided by subsection (b) shall expire on June 1, 1990.

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TITLE XIV—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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PART C—MISCELLANEOUS PROVISIONS

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SEC. 1436.[33] NUCLEAR TEST BAN READINESS PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) On September 17, 1987, the United States and the Soviet Union announced that they would resume full-scale, stage-by-stage negotiations on issues relating to nuclear testing, including further intermediate limitations on nuclear testing leading to the ultimate objective of a comprehensive nuclear test ban.

(2) It was agreed that the first step in these negotiations would be to reach agreement on verification measures that will make possible the ratification of the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976.

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[33] 42 U.S.C. 2121 note.

Sec. 3140 of Public Law 102–190 (105 Stat. 1580) provided the following:

"SEC. 3140. REPORT ON SCHEDULE FOR RESUMPTION OF NUCLEAR TESTING TALKS AND TEST BAN READINESS PROGRAM.

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States and the Soviet Union share a special responsibility to resume the Nuclear Testing Talks to continue negotiations toward additional limitations on nuclear weapons testing.

"(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report containing a proposed schedule for resumption of the Nuclear Testing Talks and identifying the goals to be pursued in those talks.

"1(c) NUCLEAR TEST BAN READINESS PROGRAM.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $20,000,000 shall be available to conduct the nuclear test ban readiness program established pursuant to section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note).".

(3) To achieve the agreement on verification measures, the United States and the Soviet Union have agree to design and conduct a Joint Verification Experiment at the test sites of each country during the summer of 1988.

(4) At the Moscow summit in May 1988, President Reagan and General Secretary Gorbachev reaffirmed their commitment to negotiations on "effective verification measures which will make it possible to ratify the Threshold Test Ban Treaty of 1974 and Peaceful Nuclear Explosions Treaty of 1976, and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process".

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Soviet Union.

(c) PURPOSES OF PROGRAM.—The purposes of the program under subsection (b) shall be the following:

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify potential problems in stockpile reliability and safety in existing designs of nuclear weapons.

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.

(d) CONDUCT OF PROGRAM.—The Secretary of Energy shall carry out the program provided for in subsection (b). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national nuclear weapons laboratories.

(e)[34] * * * [Repealed—1997]

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[34] Sec. 3152(i) of Public Law 105–85 (111 Stat. 2042) struck out subsec. (e), which had read as follows:

"(e) ANNUAL REPORT.—The Secretary of Energy shall submit to Congress each year an unclassified report (with a classified annex as necessary) that describes the progress made to the date of the report in achieving the purposes of the program required to be established under subsection (b).".

q. Department of Defense Appropriations Act, 1989

Partial text of Public Law 100–463 [H.R. 4781], 102 Stat. 2270, approved October 1, 1988; as amended by Public Law 100–526 [Defense Authorization Amendments and Base Closure and Realignment Act, S. 2749], 102 Stat. 2623, approved October 24, 1988; Public Law 100–690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat 4181, approved November 18, 1988; and by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE VIII

GENERAL PROVISIONS

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SEC. 8125.[1] (a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

(2) The report shall include a discussion of the following:

(A) The current assignment of military missions among the member countries of NATO.

(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific

[1] 10 U.S.C. 113 note.

actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

(c) The President shall appoint an Ambassador at Large responsible to the President who shall have the responsibility for ensuring a more balanced sharing of defense costs by the NATO members, Japan, the Republic of Korea, and other countries allied to the United States. Such responsibilities shall include negotiations for burdensharing including increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and multi-lateral foreign assistance costs: *Provided*, That the Ambassador at Large should review (1) trade restrictions that require German utilities to purchase German-produced coal to the exclusion of foreign coal, including United States coal, and (2) the extent to which the tax on electricity used to subsidize German coal producers is borne by American military installations, American military dependents, or American civilians who support our military installations. The Ambassador at Large should prepare an economic analysis on the comparison of using German versus United States coal at defense facilities in Europe. This analysis should address the issues of all direct subsidies provided on German coal and restrictions imposed on imported coal and should be submitted to the Department of Defense, State, and Commerce for use in their study on the economic benefits of using coal at defense facilities in Europe.

(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives[2] a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for the preceding sentence may be increased if and

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

(g)(1) After fiscal year 1990, Department of Defense budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989, and shall detail: (A) a description of the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

(2) The Secretary of Defense shall notify in advance the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives[3] through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

(i) In this section—

(1) the term "personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are as-

[3] Sec. 1502(f)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 509) struck out "Committees on Appropriations and Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives".

signed to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

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r. National Defense Authorization Act for Fiscal Years 1988 and 1989

Partial text of Public Law 100–180 [H.R. 1748], 101 Stat. 1019, approved December 4, 1987; as amended by Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

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

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TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

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SEC. 107. AUTHORIZATION OF FUNDS FOR CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 747), in the amount of $125,100,000, of which—

(1) $94,100,000 shall be for operation and maintenance;

(2) $11,500,000 shall be for research, development, test and evaluation; and

(3) $19,500,000 shall be for procurement.

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PART C—MISCELLANEOUS PROVISIONS

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SEC. 125.[1] REVISION OF CHEMICAL DEMILITARIZATION PROGRAM

(a) DEFINITION.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary of Defense shall issue the final Programmatic Environmental Impact

[1] 50 U.S.C. 1521 note.

Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(c) DISPOSAL TECHNOLOGIES.—(1) Funds appropriated pursuant to this Act or otherwise made available for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense certifies to Congress in writing that the concept plan under the program includes the following:

(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of the technology or technologies to be used for such purpose.

(B) Full-scale operational verification of the technology or technologies selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) ALTERNATIVE CONCEPT PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[2] an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

(1) incorporate the requirements of subsections (b) and (c); and

(2) specify any revised schedule or revised funding requirement necessary to enable the Secretary to meet the requirements of subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

(e) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing United States stockpile of chemical weapons; and

(2) assessment of the condition of the stockpile.

SEC. 126.[3] WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE

Chemical munitions of the United States stored in Europe on the date of the enactment of this Act should not be removed from Europe unless such munitions are replaced contemporaneously with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND PROGRAM LIMITATIONS

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[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[3] 50 U.S.C. 1513 note.

SEC. 207. FUNDS FOR COOPERATIVE PROJECTS WITH MAJOR NON-NATO ALLIES

Of the funds appropriated pursuant to the authorizations of appropriations for fiscal year 1988 in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–961).[4]

SEC. 208.[5] ONE-YEAR UNITED STATES MORATORIUM ON TESTING ANTISATELLITE WEAPONS

(a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the F–15 launched miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated antisatellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.

PART B—PROGRAM POLICIES

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SEC. 220. SENSE OF CONGRESS ON STRATEGIC MISSILE MODERNIZATION PROGRAMS

(a) FINDINGS.—The Congress makes the following findings:

(1) It is essential that the nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces.

(2) The capabilities of the conventional forces of the United States and its allies will become more important if an agreement with respect to intermediate- range nuclear forces (INF) is concluded between the United States and the Soviet Union.

(3) It is both desirable and possible to reduce the reliance of the North Atlantic Treaty Organization on nuclear weapons for the defense of all members of the alliance if the member nations of the alliance assert the political will to reduce such reliance and establish sound defense priorities.

(4) The United States is currently procuring and deploying one land- based intercontinental ballistic missile system (the MX system) at significant cost while developing another such system (the so-called Midgetman system) at significant additional cost.

(5) Efforts to reduce the Federal budget deficit, which are imperative for the economic well being of the United States, will continue for the foreseeable future to require limits on all discretionary Federal spending, including defense spending.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the authorization of funds in this Act for research and development for both the new small mobile intercontinental ballistic missile (commonly known as the "Midgetman" missile) and the proposed rail-mobile basing mode for the MX missile does not constitute a commitment or express an in-

[4] Should read Public Law 99–661. Sec. 1105 was repealed in 1989.
[5] 10 U.S.C. 2431 note.

tent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

PART C—STRATEGIC DEFENSE INITIATIVE

Subpart 1—SDI Funding and Program Limitations and Requirements

SEC. 221. FISCAL YEAR 1988 FUNDING LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $3,621,000,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIED ACTIVITIES.—Of the funds available for the Strategic Defense Initiative program under subsection (a)—

(1) $27,000,000 shall be available only for a classified laser program;

(2) $15,000,000 shall be available only for medical applications of the free electron laser program for medical research and material; and

(3) $17,000,000 is available for defense-wide mission support for the Strategic Defense Initiative.

(c) DEFENSE-WIDE MISSION SUPPORT.—Of the amount appropriated for Defense Agencies for fiscal year 1987, $16,000,000 may be used for defense-wide mission support for the Strategic Defense Initiative.

SEC. 222.[6] PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES

(a) SDI CONTRACTS WITH FOREIGN ENTITIES.—Funds appropriated to or for the use of the Department of Defense may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) TEMPORARY SUSPENSION OF PROHIBITION UPON CERTIFICATION OF THE SECRETARY OF DEFENSE.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) EXCEPTIONS FOR CERTAIN CONTRACTS.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract is to be performed within the United States;

(2) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems; or

[6] 10 U.S.C. 2431 note.

(3) that foreign government or foreign firm agrees to share a substantial portion of the total contract cost.

(d) DEFINITIONS.—In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

(e) TRANSITION.—The prohibition in subsection (a) shall not apply to a contract entered into before the date of the enactment of this Act.

SEC. 223.[6,7] LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to Russia or any other independent state of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines, and certifies to the Congress at least 15 days prior to any such transfer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.

SEC. 224.[6] SDI ARCHITECTURE TO REQUIRE HUMAN DECISION MAKING

No agency of the Federal Government may plan for, fund, or otherwise support the development of command and control systems for strategic defense in the boost or post-boost phase against ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative human decision at an appropriate level of authority.

SEC. 225. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1988, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1988 or for any fiscal year before fiscal year 1988, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the April 1987 SDIO Report; or

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[7] Sec. 203(a)(1) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2321) amended and restated sec. 223. It formerly read as follows:

"SEC. 223. LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION

"Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to the Soviet Union by the United States (or with the consent of the United States) unless—

"(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

"(2) Congress approves that determination by a joint resolution.".

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti- ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the April 1987 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1988 if the transfer is made in accordance with section 1201 of this Act and any comparable provision in legislation appropriating funds for military functions of the Department of Defense for fiscal year 1988.

(b) DEFINITION.—As used in this section, the term "April 1987 SDIO Report" means the report entitled "Report to Congress on the Strategic Defense Initiative", dated April 1987, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 10 U.S.C. 2431 note).

SEC. 226.[8] * * * [Repealed—1996]

SEC. 227.[6] ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for issues of system integration related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization, after assessing alternative types of organizations for the provision of such technical support to the Strategic Defense Initiative program (including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories), determined that a new federally funded research and development center (hereinafter in this section referred to as an "FFRDC") would be the type of organization most appropriate for the provision of such technical support to the Strategic Defense Initiative program.

(3) In providing such technical support to the SDI program, the new FFRDC should provide critical evaluation and rigorous and objective analysis of technologies, systems, and architectures that are candidates for use in the SDI program.

(4) Competitive selection of a contractor to establish and operate such an FFRDC to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of system integration issues within the Strategic Defense Initiative program.

[8] Sec. 253(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 234) repealed sec. 226, which had prohibited the Secretary of Defense from deploying any anti-ballistic missile system unless such deployment was specifically authorized by law.

(b) AUTHORITY TO CONTRACT FOR FFRDC.—The Secretary of Defense, using funds appropriated to the Department of Defense for the Strategic Defense Initiative program, may enter into a contract to provide for the establishment and operation of a federally funded research and development center to provide independent and objective technical support to the Strategic Defense Initiative program. Such a contract may not be awarded before October 1, 1989.

(c) CONTRACT AWARD REQUIREMENTS.—(1) A contract under subsection (b) shall be awarded using competitive procedures which emphasize cost considerations.

(2) The Secretary of Defense shall solicit proposals for such contract from existing federally funded research and development centers, from universities, from commercial entities, and from appropriate new organizations and shall make maximum efforts to obtain more than one proposal for such contract.

(3) The Secretary shall submit the three best contract proposals (as determined by the Secretary), together with a copy of the proposed sponsoring agreement for the new FFRDC, for review by three persons designated by the Defense Science Board from a list of six or more persons submitted by the National Academy of Sciences. The persons performing the review—

(A) shall evaluate the extent to which each proposal and the proposed sponsoring agreement would foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) shall report their evaluation of each such proposal and of the proposed sponsoring agreement to the Secretary.

(4) Before awarding a contract under subsection (b), and not sooner than March 30, 1989, the Secretary shall submit to Congress—

(A) a copy of the proposed final contract; and

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC.

(5)(A) The Secretary shall then withhold the award of such contract and the approval of such sponsoring agreement for a period of at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives the copies referred to in paragraph (4).

(B) For purposes of subparagraph (A), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress. In computing the 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded.

(d) REQUIREMENTS APPLICABLE TO FFRDC.—The Secretary of Defense shall—

(1) require that the contract referred to in subsection (b) include a provision stating that no officer or employee of the Department of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(2) require that at least 5 percent of the total amount of funds available for the new FFRDC shall be set aside for independent research to be performed by the staff of the new

FFRDC under the direction of the chief executive officer of the new FFRDC;

(3) impose a limitation on the compensation payable to each senior executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to senior executives of comparable federally funded research and development centers for similar services;

(4) require that the new FFRDC publicly disclose the salary of its chief executive officer;

(5) prohibit current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees of the FFRDC if such members constitute 10 or more percent of the Board of Trustees or from serving as officers of the new FFRDC;

(6) require that the contract referred to in subsection (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC, except that a Board member may serve as the President of the new FFRDC if the Board is comprised of 10 or more members;

(7) require that the contract referred to in subsection (b) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, served in the Strategic Defense Initiative Organization within two years before the date on which such person is to be employed by the new FFRDC; and

(8) require that any contract referred to in subsection (b) require that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program.

(e) FUNDING.—The Secretary of Defense shall provide that all funds for the new FFRDC within the Department of Defense budget for any fiscal year shall be separately identified and set forth in the budget presentation materials submitted to Congress for that fiscal year.

(f) SUNSET PROVISION.—No Federal funds may be provided to the new FFRDC after the end of the five-year period beginning on the date of the award of the first contract awarded to the FFRDC under this section.

Subpart 2—Report Requirements

SEC. 231.[6] ANNUAL REPORT ON SDI PROGRAMS

(a) IN GENERAL.—Not later than March 15, 1988, and March 15, 1989, the Secretary of Defense shall transmit to Congress a report (in both an unclassified and a classified form) on the programs that constitute the Strategic Defense Initiative and on any other program relating to defense against ballistic missiles. Each such report shall include the following:

(1) A detailed description of each program or project included in the Strategic Defense Initiative (SDI) or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an as-

sessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(2) A clear definition of the objectives of each phase of the Strategic Defense Initiative Organization plan approved by the Defense Acquisition Board.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the Antiballistic Missile Treaty.

(6) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(7) Details regarding funding of programs and projects for the Strategic Defense Initiative, including—

(A) the level of funding provided for the current fiscal year and for previous fiscal years for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress;

(B) the amount requested to be appropriated for each such program and project for the next fiscal year;

(C) the amount programmed to be requested for each such program and project for the following fiscal year; and

(D) the amount required to reach the next significant milestone for each demonstration program and each major technology program.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites, including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(9) For each of the near-term military missions listed in paragraph (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach those operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected Soviet threats.

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SEC. 232. REPORT ON SDI DEVELOPMENT PLANS AND COSTS

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[9] a report on the total cost to develop, produce, deploy, operate, and maintain the ballistic missile defense system that would incorporate the technologies approved by the Secretary of Defense in authorizing proceeding into the demonstration/validation phase of the acquisition process. Should this system not be sufficiently defined, the system described in the 1987 report entitled "Report of the Technical Panel on Missile Defense in the 1990s", prepared by the George C. Marshall Institute, should be used as a basis for determining cost.

(b) DEADLINE FOR REPORT; CLASSIFICATION.—The report under subsection (a) shall be submitted no later than six months after the date of the enactment of this Act and shall be submitted in unclassified form.

SEC. 233. REPORT ON HOW ABSENCE OF THE ABM TREATY WOULD AFFECT STRATEGIC OFFENSIVE AND DEFENSIVE PROGRAMS

(a) REPORT ON NO ABM TREATY LIMITATIONS.—The Secretary of Defense shall submit to Congress a report concerning what the effect would be on strategic offensive and defensive programs of the United States if there were no limitations on strategic defensive systems in force under the 1972 ABM Treaty.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

[9] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(1) An analysis of the ramifications of there being no limitation in force under the 1972 ABM Treaty on development under the Strategic Defense Initiative (SDI) program of strategic defenses, including comprehensive strategic defense systems and more limited defenses designed to protect vital military and command and control assets of the United States.

(2) A comparison (based on the analysis made under paragraph (1)) of the research and development programs that could be pursued under the SDI program under the limitations applicable under the restrictive interpretation of the 1972 ABM Treaty, under the less restrictive interpretation of such treaty, and under a case in which there were no such limitations, including a comparative analysis of—

(A) the overall cost of such research and development programs;

(B) the schedule of such research and development programs; and

(C) the level of confidence attained in such research and development programs with respect to supporting a decision to commence full-scale engineering development under such programs in the early-to-mid 1990s.

(3) A list of options for the SDI program, assuming that there are no limitations in force under the 1972 ABM Treaty, that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of the schedule for making a decision to commence full-scale engineering development.

(C) Increase in the level of confidence in the results of the research by the original scheduled date for the commencement of full-scale development.

(4) An analysis of how rapidly, in the absence of limitations under the 1972 ABM Treaty, the Soviet Union could deploy a nationwide anti-ballistic missile defense of military and nonmilitary targets and the consequences of such a deployment. The analysis should include an assessment of the following:

(A) The effect of such deployment on the confidence of the United States that, should deterrence that depends increasingly on defensive forces fail, the planned strategic nuclear forces of the United States would be sufficient to hold assets that the leaders of the Soviet Union value at risk following a first strike by the Soviet Union against the United States.

(B) The changes that must be made to the strategic offensive forces of the United States to hold assets that the leaders of the Soviet Union value at risk in the presence of strategic defenses. The analysis should include both the cost of those changes and the time period scale over which they could be accomplished.

(C) The consistency of the required changes to United States strategic offensive forces of the United States described under subparagraph (B) with the current United States negotiating position in the Strategic Arms Reduction (START) negotiations.

(D) The degree to which crisis stability would be affected during the transition period between the appearance of nationwide anti-ballistic missile defenses by both the United States and the Soviet Union and the completion of the changes that the United States would make to its strategic offensive forces in response to such defenses by the Soviet Union.

(5) An analysis of the effect on deterrence of nuclear conflict if both the United States and Soviet Union deploy strategic defenses of comparable capability, considering both less capable and highly capable strategic defenses, as well as appropriate transition issues (including the effect on deterrence of the potential vulnerability of strategic defenses).

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) REPORT CLASSIFICATION.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

(e) 1972 ABM TREATY DEFINED.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 234. REPORT ON ALLOCATION OF FY88 FUNDING

(a) IN GENERAL.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives[10] a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1988. The report shall set out the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1988.

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TITLE III—OPERATION AND MAINTENANCE

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PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) AUTHORIZATION OF FUNDS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1988 the sum of $13,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of this sum, not more than $3,000,000 is authorized to be used for distribution of humanitarian relief supplies to the non-Communist resistance

[10] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

organizations at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriations Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives[11] two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1988. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under this section and section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3856).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section and section 331 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332.[12] * * *

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[11] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[12] Sec. 332 added a new section 402 to title 10, U.S.C., and made other technical changes to sec. 401.

TITLE IX—MATTERS RELATING TO ARMS CONTROL [13]

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TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

PART A—NATO DETERRENCE

SEC. 1001. REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE

(a) REQUIREMENT.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s. The report shall include a specific discussion of the implications for such deterrence if the United States and the Soviet Union agree to a treaty which requires the elimination of all intermediate-range nuclear force (INF) missiles having a range between 500 and 5,500 kilometers. The report shall be prepared in consultation with the Supreme Allied Commander, Europe, and the Chairman of the Joint Chiefs of Staff.

(b) FORM AND CONTENT OF REPORT.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) A discussion of the effect that the elimination under an INF treaty of intermediate range missiles deployed by the United States and the Soviet Union would likely have on the ability of NATO to maintain an effective flexible response strategy and credible deterrence.

(2) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems of the United States not limited by the proposed INF treaty which the Secretary of Defense recommends for deployment in or redeployment to the European theater if an INF treaty is ratified and enters into force, including a description of any nuclear modernization program the Secretary has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the balance between the nonnuclear forces of NATO and the Warsaw Pact in the European theater, the likelihood of NATO making significant improvements in that balance over the next few years, the potential effect of conventional force balance alternatives currently under consideration by the United States Government, and the likelihood and potential effect of a new agreement between NATO and the Warsaw Pact limiting nonnuclear forces on that balance.

(4) A discussion of the feasibility and cost effectiveness of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

[13] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

(5) A description of nonnuclear forces that would be needed to support the operational concept of Follow-on Forces Attack (FOFA).

(6) The status of improvements being made in the air defenses of NATO in Europe.

(7) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR), on the matters described in paragraphs (1) through (5).

(c) DEADLINE OF REPORT.—The report required by subsection (a) shall be submitted not later than the earlier of—

(1) 90 days after the date of the enactment of this Act; or

(2) the date on which the President submits to the Senate for its advice and consent a treaty described in subsection (a).

SEC. 1002. SENSE OF CONGRESS ON LEVEL OF UNITED STATES FORCES PERMANENTLY STATIONED IN EUROPE IN SUPPORT OF NATO

(a) FINDINGS.—The Congress makes the following findings with respect to the level of United States military forces permanently stationed in Europe:

(1) The agreement in principle between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implications for the defense posture of the North Atlantic Treaty Organization alliance.

(2) The presence of United States forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the alliance.

(3) NATO Defense Ministers stated in May 1987 that the "continued presence of United States forces at existing levels in Europe plays an irreplaceable role in the defense of North America as well as Europe".

(b) SENSE OF CONGRESS.—(1) In light of the findings in subsection (a), it is the sense of Congress that—

(A) the stationing in Europe of United States military forces in support of NATO at the level of military personnel permanently stationed in Europe in support of NATO on the date of the enactment of this Act plays an indispensable role for peace and deterrence; and

(B) the commitment of United States forces should be continued at that level (assuming all existing basing agreements remain in effect).

(2) It is further the sense of Congress that it would not be inconsistent with the sense of Congress expressed in paragraph (1) if the actual number of United States military personnel permanently stationed in Europe in support of NATO at any time falls below the level of such personnel on the date of the enactment of this Act because of administrative fluctuations or if such level is reduced following a determination by the President that national security considerations require such a reduction.

SEC. 1003. STUDY OF FUTURE OF NATO

The Secretary of Defense shall contribute, from funds appropriated for fiscal year 1988 for operation and maintenance of De-

fense Agencies, the amount of $50,000 to the North Atlantic Assembly for a study on the future of the North Atlantic Treaty Organization.

PART B—BURDEN SHARING

SEC. 1011. STUDY OF DEFENSE EXPENDITURES IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall conduct a study of the ways in which the United States may further its national security interests in the Far East.

(b) REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on such study. The report shall contain—

(1) the plans of the Department of Defense in the current five-year defense plan for defense expenditures for each fiscal year covered by the plan to be made in support of United States security interests in the Far East and, of such planned expenditures in each such fiscal year, how much is attributable to projected increases in defense outlays for that fiscal year;

(2) the projections for national defense expenditures by Japan for each such fiscal year;

(3) the projections for national defense expenditures by the United States directly in support of United States forces, facilities, and equipment stationed or located in Japan for each such fiscal year; and

(4) the projections for national defense expenditures by Japan directly in support of United States forces stationed in Japan for each such fiscal year.

SEC. 1012. SENSE OF CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to the security of both the United States and Japan have increased significantly since 1976, principally as the result of—

(A) the occupation of Afghanistan by the Soviet Union;

(B) the continued expansion and buildup of military forces of the Soviet Union (particularly the expansionist efforts by the Soviet Union in the South Pacific and the buildup of the Soviet Pacific fleet);

(C) the occupation of Cambodia by Vietnam; and

(D) instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the government of Japan—

(A) has raised its defense spending by an average of 5 percent per year since 1981;

(B) has rescinded a limit on annual expenditures for defense of 1 percent of the gross national product of Japan; and

(C) is fulfilling the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles by 1990.

(4) While recognizing and applauding the actions by the government of Japan referred to in paragraph (3), Congress notes that Japan has the second largest gross national product in the world, is a major creditor nation, and has a large private savings rate, but nevertheless lags far behind other industrialized democracies in terms of the percentage of its gross national product that it spends for national defense and programs to promote global security and stability.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increasing spending for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(2) Devoting increased spending for its Official Development Assistance program primarily to the Republic of the Philippines and regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devoting any increase in spending for that program primarily to concessional, untied grants and increasing the portion of total expenditures made for that program for those multilateral financial institutions of which Japan is a member.

(4) Designating those nations that are to be recipients of increased development assistance as described in paragraphs (1) through (3) through consultation with its security partners.

(5) Completing its five-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, further enhancing the fulfillment of the pledge of Prime Minister Suzuki referred to in subsection (a)(3).

PART C—PROCUREMENT MATTERS

SEC. 1021.[14] OVERSEAS WORKLOAD PROGRAM

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair,

[14] 10 U.S.C. 2341 note.

or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE FOR PERFORMANCE OF WORK.—A contract awarded during fiscal year 1988 or 1989 to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the Armed Forces of the United States; or

(2) would violate the terms of an international agreement to which the United States is a party.

(d) REPORT REQUIREMENT.—(1) Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a report on the nature of the maintenance, repair, and overhaul work of the Department of Defense performed under the program of the Department of Defense known as the Overseas Workload Program.

(2) The report shall include the following:

(A) A description of the categories of work performed under that program and the costs associated with those categories of work.

(B) A description of the capabilities of facilities that United States firms have established in Europe to perform work under that program.

(C) A description of the capabilities to perform work under that program by firms in the United States, Canada, and countries that are major non-NATO allies of the United States.

(D) A description of the maintenance, repair, and overhaul work under that program that could be performed in the United States or Canada, or in a country that is a major non-NATO ally, on a cost-effective basis and without a significant adverse effect on the readiness of the Armed Forces of the United States.

(E) A list and detailed explanation of each of the instances, through October 31, 1988, in which the Secretary of a military department exercised the authority provided in subsection (c).

(e) DEFINITION.—For purposes of this section, the term "major non-NATO ally" has the meaning given that term by section 1105(g)(1) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661).[15]

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SEC. 1023. REPORT ON CO-PRODUCTION OR CO-ASSEMBLY OF M1A1 TANK

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a detailed report on any plans of the Department of Defense as of the time of the submission of the report regarding co-produc-

[15] Sec. 1105(g)(1) of Public Law 99–661 defined "major non-NATO ally" as a country designated such by the Secretary of Defense with the concurrence of the Secretary of State.

tion or co-assembly of the M1 or M1A1 Abrams tank with a foreign country. The Secretary shall include in such report the following:

(1) The status of any current negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of the M1 or M1A1 tank by the United States and that country.

(2) A comparison of the long-term effects on the United States mobilization base of production of such tank under a co-production or co-assembly arrangement with a foreign country.

(3) The effect an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) CLASSIFICATION OF REPORT.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

SEC. 1024. WEAPONS STORAGE AND SECURITY SYSTEMS

(a) LIMITATION ON INSTALLATION.—Funds appropriated or otherwise made available to the Department of Defense for fiscal years 1988 and 1989 may not be expended for installation of Weapons Storage and Security Systems (WSSS) in the territory of any European member nation of the North Atlantic Treaty Organization until the Secretary of Defense certifies to Congress that the construction program with respect to such systems is eligible for common financing under the NATO Infrastructure program.

(b) EFFECT OF INF TREATY.—If a treaty on Intermediate Range Nuclear Forces (INF) is ratified before the certification under subsection (a) is made, the Secretary shall submit with the certification a plan for revising the installation of those systems in order to reflect any additional requirements resulting from that treaty.[16]

(c) MILESTONES.—The Secretary shall submit with the certification under subsection (a) a description of the key milestones for entering into contracts under the program and for reaching an agreement concerning NATO financing and shall include a certification that all available steps are being taken to accelerate agreement with NATO on a final plan for recoupment of advance funding by the United States for the installation of such systems.

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TITLE XI—DEPARTMENT OF DEFENSE MANAGEMENT

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PART C—SECURITY AND COUNTERINTELLIGENCE MATTERS

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[16] For text of INF treaty, ratified on June 1, 1988, see *Legislation on Foreign Relations*, vol. V, sec. F.

SEC. 1122.[17] * * * [Repealed—1993]

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TITLE XII—GENERAL PROVISIONS

PART C—MISCELLANEOUS REPORTS

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SEC. 1222. REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

(a) REPORT REQUIREMENT.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on contingency plans of the Department of Defense and the Department of Energy for dealing with significant disruptions in the supply to the United States of crude oil produced by the nations of the Persian Gulf region. The report shall be prepared with the assistance of the Secretary of State.

(2) If the Secretary of Defense and the Secretary of Energy find it necessary to classify the report (or any portion of the report), a nonclassified version containing all energy policy recommendations made by the two Secretaries shall be transmitted with the report.

(b) MATTERS TO BE STUDIED.—In preparing the report required by this section, and any periodic update to that report, the Secretaries shall—

(1) ascertain the extent to which the Armed Forces of the United States, the civilian economy of the United States, and the nations of the free world (with specific reference to the NATO allies and to other strategic allies of the United States) currently depend on crude oil produced in the Persian Gulf region;

(2) prepare a range of estimates on the types of disruptions that could occur in the supply of crude oil from the Persian Gulf region and the effect of each such disruption (including duration) on reduced availability of crude oil supply from the oil producing nations of the Persian Gulf;

(3) develop a range of plans for dealing with supply disruptions and shortages of crude oil from the Persian Gulf region, including—

(A) the role and use of existing domestic crude oil production, other non-Persian Gulf sources of the world supply of crude oil, and the Strategic Petroleum Reserve; and

(B) the use of any emergency power or authority provided for by existing law; and

(4) identify and review any bilateral or multilateral agreement (including the International Energy Agreement) which commits or obligates the United States to furnish crude oil or petroleum products to other nations.

(c) RECOMMENDATIONS.—The report under subsection (a) shall set forth the policy and legislative recommendations of the Secretaries for improving the ability of the United States to respond

[17] Sec. 1122, repealed by sec. 502(f)(1) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2326), had required the Secretary of Defense to submit to Congress a report assessing Soviet electronic espionage capabilities from the Mount Alto embassy site.

effectively to problems created by significant disruptions in the production, transportation, and supply of crude oil in the Persian Gulf region.

(d) COST ESTIMATES.—The report under subsection (a) shall include estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world economy and to the United States economy.

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PART E—MISCELLANEOUS MATTERS

SEC. 1241.[18] GAO STUDY OF THE CAPABILITIES OF THE UNITED STATES TO CONTROL DRUG SMUGGLING INTO THE UNITED STATES

(a) STUDY REQUIREMENT.—The Comptroller General of the United States shall conduct a comprehensive study regarding smuggling of illegal drugs into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller General shall—

(1) assess the national security implications of the smuggling of illegal drugs into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the effect on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as passed the House of Representatives on May 20, 1987,[19] as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border be-

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[18] 21 U.S.C. 801 note.

[19] H.R. 1748 provided, in part, the following:

"SEC. 825. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES

"(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"'(e)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substance Act (21 U.S.C. 801 et seq.) or the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of those Acts.

"'(2) Members may be assigned to provide assistance under paragraph (1) only if—

"'(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"'(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"'(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.'".

The text of sec. 825, as it appeared in the House passed version on May, 20, 1987, was not retained when H.R. 1748 was enacted into law as Public Law 100–180.

ginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether giving the Armed Forces a more direct, active role in drug interdiction activities would enhance the morale and readiness of the Armed Forces;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation, the Department of Justice, and the Department of the Treasury for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to use effectively the information generated by the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to use the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH–B), ROTHR, aerostats, airships, and the E–3A, E–2C, P–3, and P–3 Airborne Early Warning aircraft (including any variant of the P–3 Airborne Early Warning aircraft).

(b) REPORTS.—(1) Not later than April 30, 1988, the Comptroller General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (1) through (5) of that subsection.

(2) As soon as practicable after the report under paragraph (1) is submitted, and not later than March 31, 1989, the Comptroller General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (6) through (10) of that subsection.

(3) The reports under paragraphs (1) and (2) shall be submitted to—

(A) the Committees on Armed Services, the Judiciary, Foreign Relations, and Appropriations of the Senate;

(B) the Committees on Armed Services, the Judiciary, Foreign Affairs, and Appropriations of the House of Representatives;[20]

(C) the members of the Senate Caucus on International Narcotics Control; and

[20] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

(D) the Select Committee on Narcotics Abuse and Control of the House of Representatives.

(4) The reports under this subsection shall be submitted in both classified and unclassified forms and shall include such comments and recommendations as the Comptroller General considers appropriate.

SEC. 1242. TRANSFER OF FUNDS TO THE COAST GUARD

Of the amounts appropriated to the Department of Defense for fiscal years 1988 and 1989, the Secretary of Defense shall transfer to the Secretary of Transportation funds to assist in providing for the Law Enforcement Detachment program of the Coast Guard as follows:

(1) $3,000,000 from amounts appropriated for fiscal year 1988.

(2) $6,000,000 from amounts appropriated for fiscal year 1989.

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TITLE XIV—FOREIGN RELATIONS MATTERS

SEC. 1401. COMMENDATION OF ARMED FORCES IN PERSIAN GULF FOR SUCCESS OF CERTAIN OPERATIONS

(a) FINDINGS.—Congress makes the following findings:

(1) The Armed Forces of the United States are currently engaged in operations in the Persian Gulf, including operations to escort United States flag vessels moving through the Gulf, in order to protect national security interests of the United States and the principle of freedom of navigation in international waters.

(2) The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in ongoing activities, including the laying of mines in international waters, to disrupt shipping in the Persian Gulf.

(3) During the night of September 21–22, 1987, Army and Naval forces of the United States detected an Iranian minelaying activity underway in international waters in the Persian Gulf and, in an outstanding instance of joint military operations, tracked and neutralized the boat carrying out the mine laying.

(4) On October 8, 1987, elements of the Armed Forces of the United States, acting jointly, successfully defended themselves against an attack by Iranian forces in the Persian Gulf.

(5) The success of those joint operations (A) serves notice to Iran that the United States will react decisively and effectively to such hostile activities, and (B) may result in reduced risk to United States interests in the Persian Gulf.

(6) There is precedent throughout the history of the United States for Congress to recognize and commend similar operations by the Armed Forces of the United States, including Congressional praise on February 3, 1802, of "the gallant conduct" of certain members of a United States Naval force in the Wars with the Barbary Powers.

(b) CONGRESSIONAL COMMENDATIONS.—The Congress hereby—

(1) declares that those members of the Armed Forces who participated in the joint operations of September 21–22, 1987, and October 8, 1987, in the Persian Gulf acted in the finest military and naval traditions of the United States and displayed exemplary professionalism, skill, and dedication; and

(2) commends those members, and all members of the Armed Forces who acted in support of those operations, for their participation in those important and successful operations.

SEC. 1402. SENSE OF THE SENATE REGARDING JUSTIFICATION FOR SINKING IRANIAN VESSELS

It is the sense of the Senate that the Armed Forces of the United States are fully justified in sinking any Iranian vessel which threatens the safe passage of (1) any warship of the United States, or (2) any other vessel known to have on board any citizen of the United States. This section shall not in itself be construed as legislative authority for any specific military operation.

SEC. 1403. UNITED STATES POLICY TOWARD PANAMA

(a) FINDINGS.—The Congress makes the following findings:

(1) The executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces.

(2) A broad coalition of church, business, labor, civic, and political groups in Panama has called for an objective and thorough investigation of allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces and has insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) The Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of the use of excessive force by the Panamanian Defense Forces.

(4) Political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) POLICY.—Therefore, it is the sense of Congress that, subject to the condition expressed in subsection (c), the United States should take the following actions:

(1) Cease all economic and military assistance provided to the Government of Panama under the Foreign Assistance Act of 1961 and the Arms Export Control Act, other than assistance to meet immediate humanitarian concerns.

(2) Suspend all shipments of military equipment (including spare parts for military equipment) to the Government of Panama or to any of its agencies or institutions.

(3) Reassess whether the United States should terminate the importation into the United States of sugar, syrup, and molasses produced in Panama and reallocate among other foreign countries the quantities of such products that otherwise would be imported from Panama.

(c) CONDITIONS.—It is further the sense of Congress that the United States should take the actions described in subsection (b) unless, within 45 days after the date of the enactment of this Act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) all constitutional guarantees, including freedom of the press, have been restored to the people of Panama.

SEC. 1404. CONGRESSIONAL STATEMENTS CONCERNING VIETNAMESE OCCUPATION OF CAMBODIA AND JAPANESE TRADE WITH VIETNAM

(a) FINDINGS.—The Congress finds that—

(1) during the nine years since Vietnam invaded Cambodia in late 1978, most Western countries have pledged to maintain an embargo on trade with and developmental aid to Vietnam until Vietnamese troops are withdrawn from Cambodia;

(2) Japan joined in this embargo by freezing approximately $135,000,000 in grants and concessionary loans to Vietnam and reducing trade levels with Vietnam from $220,000,000 in 1978 to $120,000,000 the following year;

(3) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a current annual trade level of $230,000,000;

(4) this trade has included trade in goods and technology which enhances the productive capacity and the infrastructure base of Vietnam; and

(5) the 65,000,000 people of Vietnam are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) CONDEMNATION OF VIETNAMESE OCCUPATION OF CAMBODIA.—The Congress hereby—

(1) reaffirms its condemnation of the continued Vietnamese occupation of the sovereign State of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law; and

(2) reaffirms its call for Vietnam to withdraw from Cambodia as the only way Vietnam can expect to end its self-induced economic isolation.

(c) STATEMENT ON JAPANESE TRADE WITH VIETNAM.—The Congress hereby strongly urges the Government of Japan to—

(1) continue to refrain from granting to Vietnam any official economic assistance;

(2) refrain from granting to Vietnam any form of trade financing, including export credits, trade-related credit insurance, and extended loans for infrastructure development;

(3) continue to discourage its private business sector from exporting to Vietnam goods and technology which enhance the productive capacity and the infrastructure base of Vietnam, including in particular equipment for—

(A) oil exploration and development,

(B) forestry and fishery production,

(C) development of raw materials for light industries, and

(D) the upgrading of export productive capacities; and

(4) strongly discourage the private business sector of Japan from providing financing which in any way facilitates trade with Vietnam.

SEC. 1405. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

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s. National Defense Authorization Act for Fiscal Year 1987

Partial text of Public Law 99–661 [S. 2638], 100 Stat. 3816, approved November 14, 1986; as amended by Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

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TITLE I—PROCUREMENT

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PART A—FUNDING AUTHORIZATIONS

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SEC. 106. EXTENSION OF CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1986, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1100), is amended by striking out "fiscal year 1986" both places it appears and inserting in lieu thereof "fiscal year 1987".

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TITLE II—RESEARCH, DEVELOPMENT, TEXT AND EVALUATION

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PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 211. FISCAL YEAR 1987 FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE

Of the amount authorized in section 201 for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) Program.

SEC. 212. JOINT DEVELOPMENT OF ANTITACTICAL BALLISTIC MISSILE SYSTEM

Of the funds available for the Strategic Defense Initiative under section 211, not more than $50,000,000 shall be available for the joint development, on a matching fund basis, of an anti-tactical ballistic missile system for deployment with NATO allies and other countries that the United States has invited to participate in the Strategic Defense Initiative Program.

SEC. 213.[1] LIMITATION ON ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of operating a Federally funded research and development center that is established for the support of the Strategic Defense Initiative Program after the date of the enactment of this Act unless—

(1) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives[2] a report with respect to such proposed center that provides the information described in subsection (b); and

(2) funds are specifically authorized to be appropriated for such purpose after the date of the enactment of this Act in and Act other than—

(A) an appropriations Act; or

(B) a continuing resolution.

(b) CONTENT OF REPORT.—A report submitted under subsection (a)(1) with respect to a proposed center shall include a discussion of—

(1) the ability of existing Federally funded research and development centers, Federal research laboratories, and private contractors to perform the objectives of technological integration and evaluation required by the Strategic Defense Initiative Organization;

(2) the comparative cost of having the proposed work performed by—

(A) the Strategic Defense Initiative Organization;

(B) Federally funded research and development centers in existence on the date of the enactment of this Act;

(C) by Federal research laboratories; or

(D) by private research laboratories;

(E) by such center;

(3) whether such center is intended to be—

(A) primarily a study and analysis center; or

(B) primarily a system engineering/system integration center;

(4) whether such center will be required or authorized to enter into contracts under which research projects would be performed by other Federally funded research and development centers, Federal research laboratories, or private contractors;

[1] 10 U.S.C. 2431 note.

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(5) whether the contract to operate such center will be awarded on a competitive basis;

(6) whether proposals with respect to the operation of such center—

(A) will be considered by the appropriate Defense Agency; and

(B) will be subjected to review by persons to be elected by the National Academy of Sciences;

(7) whether such center will be designed to prevent even the possibility of an appearance of conflict of interest—

(A) by prohibiting any officer, employee, or member of the governing body of such center from holding any position with—

(i) the Strategic Defense Initiative Organization; or

(ii) a private contractor that has a substantial interest in the development of the Strategic Defense Initiative; and

(B) by prohibiting more than one-half of the members of the governing body of the proposed Federally Funded Research Center from simultaneously holding any position with the Strategic Defense Initiative Advisory Committee or any similar body which provides technologies, scientific, or strategic advice to the Department of Defense about the Strategic Defense Initiative;

(8) whether other actions will be taken to avoid possible conflict of interest situations within such center;

(9) the role of the Department of Defense in—

(A) the selection of the staff of such center; and

(B) the internal organization of such center; and

(10) whether a prescribed minimum percentage of the annual budget of such center will be set aside for research to be conducted independently of the Department of Defense.

(c) COMPTROLLER GENERAL REPORT.—The Comptroller General of the United States shall also submit a report to Congress providing an analysis of the items in subsection (b) as appropriate.

SEC. 214.[3] REPORT ON PROJECTED COSTS OF SDI PROGRAM * * *

SEC. 215.[4] REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT SCHEDULE—* * * [Repealed—1987]

SEC. 216. EFFECT OF STRATEGIC DEFENSE INITIATIVE ON COMPLIANCE WITH THE ANTI-BALLISTIC MISSILE TREATY

(a) FINDINGS.—The Congress makes the following findings:

(1) The President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972".

(2) The Secretary of State has stated that the "ABM Treaty requires consultations and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiations between the Parties".

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[3] Sec. 214 amended sec. 223(b) of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 613).

[4] Sec. 215 was repealed by sec. 231 of Public Law 100–180 (101 Stat. 1019).

(3) The Secretary of State declared on October 14, 1985, that "our research program has been structured and, as the President has reaffirmed, will continue to be conducted in accordance with a restrictive interpretation of the treaty's obligations".

(4) The President has determined that the Krasnoyarsk rather is a violation of the ABM Treaty.

(5) The Krasnoyarsk radar therefore erodes the integrity of the ABM Treaty and is a matter of serious concern.

(b) CONGRESSIONAL DECLARATIONS.—The Congress therefore declares—

(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed on May 26, 1972 (commonly referred to as the "ABM Treaty"); and

(2) that action by the Congress in approving funds in this Act for research on the Strategic Defense Initiative—

(A) does not express or imply an intention on the part of Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

(B) does not express or imply any determination or commitment on the part of Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty.

SEC. 217. REPORT ON THE ANTI-BALLISTIC MISSILE TREATY

(a) REPORT ON LESS RESTRICTIVE INTERPRETATION.—The Secretary of Defense shall submit to Congress a report concerning the effect of the less restrictive interpretation of the Anti-Ballistic Missile Treaty on the Strategic Defense Initiative program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative Program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of such treaty including a comparative analysis of—

(A) the overall cost of the research and development programs.

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early 1990's.

(2) A list of options under the less restrictive interpretation of such treaty that meet one or more of the following objectives:

(A) Reduction of the overall development cost.

(B) Advancement of the schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1987.

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TITLE III—OPERATION AND MAINTENANCE

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PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

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SEC. 316.[5] PROHIBITION OF PURCHASE OF ANGOLAN PETROLEUM PRODUCTS FROM COMPANIES PRODUCING OIL IN ANGOLA

(a) GENERAL RULE.—The Secretary of Defense may not enter into a contract with a company for the purchase of petroleum products which originated in Angola if the company (or a subsidiary or partnership of the company) is engaged in the production of petroleum products in Angola.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such action is in the best interest of the United States.

(c) PETROLEUM PRODUCT DEFINED.—For purposes of this section, the term "petroleum product" means—

(1) natural or synthetic crude;

(2) blends of natural or synthetic crude; and

(3) products refined or derived from natural or synthetic crude or form such blends.

(d) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

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PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a)[6] TRANSPORTATION, ADMINISTRATION, AND DISTRIBUTION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES. * * *

(b) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[7] two reports, one of which shall be submitted not later than

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[5] 10 U.S.C. 2304 note. Sec. 842 of Public Law 102–484 (106 Stat. 2468) provided the following termination:

"SEC. 842. PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

"The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola.".

[6] Sec. 331(a) amended sec. 305 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 617).

[7] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

60 days after the date of the enactment of this Act and the other not later than June 1, 1987. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 617) (as amended by subsection (a)).[6]

(2) the number of scheduled and completed flights for purposes of providing humanitarian relief under section 305 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

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TITLE IX—PROCUREMENT POLICY REFORM

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SEC. 951.[8] CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM. * * *

TITLE X—ARMS CONTROL MATTERS[9]

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TITLE XI—MATTERS RELATING TO NATO AND OTHER ALLIES

SEC. 1101.[10] MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK * * *

SEC. 1102.[11] NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS— * * * [Repealed —1989]

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SEC. 1105.[10] COOPERATIVE RESEARCH AND DEVELOPMENT WITH MAJOR NON-NATO ALLIES—* * * [Repealed—1989]

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TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

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SEC. 1303. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN CURRENCY PURCHASES

There is hereby authorized to be appropriated for fiscal year 1987 the amount of $3,500,000 for the purchase of foreign cur-

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[8] Sec. 951 added 10 U.S.C. 2327. See 10 U.S.C., this volume.

[9] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

[10] Sec. 1101 amended chapter 2 of part II of the Foreign Assistance Act of 1961, by adding a new section 516. For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A.

[11] Sec. 931 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1531) codified several sections of title 10 relating to cooperative agreements with NATO and other countries (see secs. 2350a–f), and repealed secs. 1102 and 1105.

rencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

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PART F—MISCELLANEOUS

SEC. 1351.[12] LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).

SEC. 1352. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

SEC. 1353. PROMPT REPORTING OF INTELLIGENCE ON TERRORIST THREATS

(a) IN GENERAL.—(1) Subject to subsection (b), the Secretary of Defense shall instruct all appropriate officials of the Department of Defense to take such action as may be necessary to ensure that all credible, time-sensitive intelligence received by or otherwise available to United States officials concerning potential terrorist threats to—

(A) United States citizens or facilities (including citizens and facilities overseas); or

(B) any other potential target for terrorist activities designated by the Secretary,

is reported promptly to the headquarters or office of the Department of Defense concerned.

* * * * * * *

SEC. 1364.[13] FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES

The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation exists.

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[12] 10 U.S.C. 114 note. Sec. 1063(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 444) struck out subsec. (b), which had required the Secretary of Defense to report to Congress on the source of funds used for this section, and struck out "(a) LIMITATION" preceding "Notwithstanding".

[13] Sec. 502(h) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2327) repealed subsecs. (a) and (c) of this section, relating to espionage activities of the Soviet Union, and struck subsec. designation "(b) CONGRESSIONAL POLICY.—" before the remaining text.

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SEC. 1368. SENSE OF CONGRESS REGARDING THE DEATH OF LIEUTENANT COLONEL ARTHUR D. NICHOLSON, JUNIOR

(a) FINDINGS.—The Congress finds the following:

(1) On March 24, 1985, Lieutenant Colonel Arthur D. Nicholson, Junior, of the United States Army (then holding the grade of major) was carrying out his official duties as a liaison officer of the United States Military Liaison Mission.

(2) On that date, Lieutenant Colonel Nicholson was performing his duties in uniform and in an open and direct manner, according to orders, and was conducting himself in a way which was neither provocative nor beyond the limits of proper conduct for members of the United States Military Liaison Mission, and which was well understood and accepted by the Soviet Union.

(3) On that date, a member or members of the armed forces of the Soviet Union shot and fatally wounded Lieutenant Colonel Nicholson without warning and without provocation.

(4) After having shot Lieutenant Colonel Nicholson, members of the armed forces of the Soviet Union forcibly restrained Lieutenant Colonel Nicholson's aide and prevented him from providing medical assistance to Lieutenant Colonel Nicholson, so that Lieutenant Colonel Nicholson died slowly and with great suffering, which death and suffering might have been prevented had Lieutenant Colonel Nicholson been permitted to receive assistance.

(5) The death of Lieutenant Colonel Nicholson was an untimely, unnecessary, cold-blooded murder committed against a United States military officer in pursuit of his official duties by a member or members of the armed forces of the Soviet Union, in a painful and degrading manner.

(b) SENSE OF CONGRESS.—The Congress deplores and condemns the cold-blooded murder of Lieutenant Colonel Arthur D. Nicholson, Junior. It is the sense of Congress that the Government of the Soviet Union should—

(1) apologize for and renounce the murder of Lieutenant Colonel Nicholson; and

(2) indemnify the family of Lieutenant Colonel Nicholson financially.

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SEC. 1371. NUCLEAR WINTER STUDY AND REPORT

(a) STUDY.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) REPORT.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). The report shall contain the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

(5) A plan for a five-year research program to advance understanding of nuclear winter and an estimate of the funding necessary to carry out such a research program.

(c) EVALUATION OF REPORT.—Upon submission of the report under subsection (b), the Secretary shall contract with the National Academy of Sciences to—

(1) make an independent evaluation of the material contained in the report; and

(2) not later than April 1, 1988, submit a report to the Secretary of Defense and to the Committees on Armed Services of the Senate and of the House of Representatives,[14] setting forth the results of the evaluation and may recommendations pertaining to the contents of the report, including the plan for the five-year research program.

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SEC. 1373. DRUG INTERDICTION

(a) COMPREHENSIVE PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive program designed to interdict aircraft, vessels, and vehicles carrying illegal drugs into the United States. The program shall include the following:

(1) A clear division of authority in drug interdiction and drug enforcement efforts among all Federal law enforcement agencies involved in those efforts and a mechanism which will insure maximum coordination and cooperation among those agencies.

(2) Designation of a lead agency principally responsible for each of the following areas: marine and air drug interdiction beyond the borders of the United States; domestic and border

[14] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

drug interdiction efforts; and domestic and foreign drug law enforcement efforts.

(3) A requirement that such lead agency shall be advised where possible in advance of activities by any other agency in its area of responsibility and that, upon objection by the lead agency, the matter shall be referred to the National Drug Enforcement Policy Board for resolution.

(4) A comprehensive plan to enhance the capabilities, manpower and equipment of the United States Coast Guard by the end of fiscal year 1989 in order to substantially increase the role of the Coast Guard in drug interdiction and enforcement efforts. Such plan shall specify requirements for command and control between the Coast Guard and the Department of Defense and civilian drug law enforcement and interdiction agencies.

(5) A comprehensive plan to maximize, to the extent it does not adversely affect military preparedness and consistent with the provisions of chapter 18 of title 10, United States Code, assistance by the Department of Defense to other agencies in the drug enforcement and interdiction effort.

(6) A requirement that maximum use be made of existing Department of Defense and Coast Guard command and control networks as well as other available military resources, including equipment, intelligence, and training capabilities.

(b) REPORT—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report discussing the following:

(1) Recommendations for amendments to chapter 18 of title 10, United States Code, to allow more efficient use of the Armed Forces in combating illegal drug trafficking.

(2) The legal consequences of amending chapter 18 of title 10, United States Code, to permit the direct participation of members of the Armed Forces in the interdiction of vessels or aircraft, search and seizure, arrest, or other similar activity in the assistance of civilian law enforcement officials.

(3) The amount of training, the cost of training, and the number of military personnel required to effectuate the changes referred to in paragraph (2).

(4) The effect on military preparedness of a drug interdiction program that would require the Armed Forces to halt the unlawful penetration of the United States borders by aircraft and vessels carrying narcotics and that would use military personnel to locate, pursue, and seize such vessels and aircraft and to arrest their crews.

(5) The costs in the areas of procurement, operation and maintenance, and personnel which would be necessary to restore military preparedness to the level existing before commencement of the program described in paragraph (4).

(6) The cost and number of aircraft, vessels, and personnel needed to seal the borders of the United States, including Alaska and Hawaii, to interdict the unlawful penetration of aircraft, vessels, and ground traffic carrying narcotics.

(7) The cost and number of aircraft and personnel needed to provide continuous aerial radar coverage of the United States

in order to interdict the unlawful penetration of aircraft carrying narcotics.

(8) The cost and number of rotor wing and fixed wing aircraft needed to pursue and seize intruding aircraft detected by the radar coverage referred to in paragraph (7) including a plan for the deployment of such rotor wing and fixed wing aircraft.

(9) The effect of carrying out the program referred to in paragraph (4) of the United States' ability to meet its defense responsibilities, particularly to members of the North Atlantic Treaty Organization, Japan, Korea, and Australia.

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t. Department of Defense Authorization Act, 1986

Partial text of Public Law 99–145 [S. 1160], 99 Stat. 583, approved November 8, 1985; as amended by Public Law 99–190 [Further Continuing Appropriations, 1985; H.J. Res. 465]; 99 Stat. 1185, approved December 19, 1985; Public Law 99–661 [National Defense Authorization Act, Fiscal Year 1987; S. 2638], 100 Stat. 3816, approved November 14, 1986; Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1704, approved November 5, 1990; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993, H.R. 2100], 105 Stat. 1290, approved December 5, 1991; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–199 [FRIENDSHIP ACT; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes

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

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TITLE I—PROCUREMENT

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PART A—FUNDING AUTHORIZATIONS

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SEC. 106. NATO COOPERATIVE PROGRAMS

(a) AUTHORIZATION OF APPROPRIATIONS FOR COOPERATIVE DEFENSE PROGRAMS.—(1) There is hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1986 the amount of $75,000,000 for North Atlantic Treaty Organization cooperative defense programs as follows:

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $30,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $15,000,000.

For acquisition of point air defense and port defense for facilities in Belgium, $15,000,000.

For acquisition of point air defense of United States airbases in Turkey, $15,000,000.

(2) None of the amounts appropriated pursuant to the authorizations in paragraph (1) may be obligated [1] for acquisitions in connection with a NATO cooperative defense program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

(b) EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AWACS PROGRAM.—Effective on October 1, 1985, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1100), is amended by striking out "fiscal year 1985" both places it appears and inserting in lieu thereof "fiscal year 1986".

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PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR FISCAL YEAR 1986

Of the amount authorized in section 201 for the Defense Agencies, $2,750,000,000 is available for the Strategic Defense Initiative, of which $12,500,000 is available only for the medical application of free-electron lasers and associated material and physical science research.

SEC. 222.[2] * * * [Repealed—1996]

SEC. 223. REPORTS ON STRATEGIC DEFENSE INITIATIVE

(a) REPORT ON POTENTIAL RESPONSES TO SDI AND ON RDT&E COST.—(1) The Secretary of Defense shall submit to Congress a report as to—

(A) what probable responses can be expected from potential enemies should the Strategic Defense Initiative programs be carried out to procurement and deployment, such as what increase may be anticipated in offensive enemy weapons in an

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[1] Sec. 1302(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1669) struck out par. designations (A) and (B) here and accompanying text, including:

"(A) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or".

[2] Formerly at 10 U.S.C. 139 note. Sec. 253(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 234) repealed sec. 222, which had provided as follows:

"SEC. 222. REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR DEPLOYMENT OF STRATEGIC DEFENSE INITIATIVE SYSTEM

"A strategic defense system developed as a consequence of research, development, test, and evaluation conducted on the Strategic Defense Initiative program may not be deployed in whole or in part unless—

"(1) the President determines and certifies to Congress in writing that—

"(A) the system is survivable (that is, the system is able to maintain a sufficient degree of effectiveness to fulfill its mission, even in the face of determined attacks against it); and

"(B) the system is cost effective at the margin to the extent that the system is able to maintain its effectiveness against the offense at less cost than it would take to develop offensive countermeasures and proliferate the ballistic missiles necessary to overcome it; and

"(2) funding for the deployment of such system has been specifically authorized by legislation enacted after the date on which the President makes the certification to Congress.".

enemy's attempt to penetrate the defensive shield by increasing the number or qualities of its offensive weapons:

(B) what can be expected from potential enemies in the deployment of weapons not endangered by the Strategic Defense Initiative, such as cruise missiles and low trajectory submarine missiles;

(C) the degree of the dependency of success for the Strategic Defense Initiative upon a potential enemy's anti-satellite weapons capability; and

(D) the cost estimates for the research, development, test, and evaluation for the proposed Strategic Defense Initiative.

(2) The report required by paragraph (1) shall be submitted to Congress with the request of the Secretary of Defense for appropriations for the Strategic Defense Initiative for fiscal year 1987.

(b) REPORT ON PROCUREMENT AND DEPLOYMENT COST.—The Secretary of Defense shall submit to Congress a report on the cost estimates for procurement and deployment of Strategic Defense Initiative programs. The report shall be submitted as soon as possible but not later than submission of the budget request of the Department of Defense for fiscal year 1989. The Secretary shall include in such report the following information:[3]

(1)[3] The cost goals or cost objectives for the production and deployment of a Strategic Defense Initiative System determined on the basis of capabilities expected to be developed in the future and the cost goals or cost objectives for the individual components of such system (determined on the basis of capabilities expected to be developed in the future).

(2)[3] The estimated cost for production and deployment of the Strategic Defense Initiative System referred to in paragraph (1) and determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report and the estimated cost for the production and deployment of the individual components of such system (determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report).

SEC. 224. CONGRESSIONAL POLICY REGARDING CONSULTATION WITH OTHER MEMBERS OF NATO ON THE STRATEGIC DEFENSE INITIATIVE

(a) COMMENDATION OF PRESIDENT'S ACTION.—The Congress commends the President's attempts to initiate cooperation between the United States and other member nations of the North Atlantic Treaty Organization (NATO) on the Strategic Defense Initiative.

(b) CONSULTATION AND COOPERATION WITH OTHER NATO NATIONS.—It is the sense of Congress—

(1) that the mutual defense of NATO member nations is strengthened when there is a high degree of consultation and cooperation among member nations; and

(2) that the President should continue consultations with other member nations of NATO on the Strategic Defense Initiative program and, to the maximum extent feasible and within national security guidelines, keep such member nations in-

[3] Sec. 214 of Public Law 99–661 added the last sentence and subpar. (1) and (2).

formed of the progress, plans, and potential proposals of the United States regarding such program.

SEC. 225.[4] *** * *** [Repealed—1996]

SEC. 226. REPORT ON STRATEGIC AND THEATER BALLISTIC MISSILE DEFENSES

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a study to examine the feasibility and military value of the early application of defenses against ballistic missile attack from the standpoint of—

(1) defending high value United States and allied capabilities abroad; and

(2) defending United States strategic deterrent capabilities.

(b) MATTERS TO BE INCLUDED IN STUDY.—The study shall specifically address—

(1) the contribution such defenses could make to deterrence stability;

(2) the adequacy in this regard of existing programs, including in particular the Strategic Defense Initiative; and

(3) the adequacy of the Army's Anti-Tactical Missile (ATM) program for allied defense.

(c) REPORT ON STUDY.—The Secretary of Defense shall submit to Congress a report containing the results of such study not later than February 15, 1986.

TITLE III—OPERATION AND MAINTENANCE

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SEC. 305. AUTHORIZATION OF APPROPRIATIONS FOR TRANSPORTATION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES

(a) AUTHORIZATION OF FUNDS.—(1) There is hereby authorized to be appropriated to the Department of Defense for fiscal year 1986 the sum of $10,000,000 and for fiscal year 1987 the sum of $10,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.[5]

(2)[6] Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99–190; 99 Stat. 1189), for operation and maintenance for the Air Force, $7,000,000 shall remain available for obligation until September 30, 1987, for the purpose described in paragraph (1) (including providing transportation of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code). Such funds shall be in addition to funds appropriated pursuant to the authorization in paragraph (1).

(b) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant

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[4] Sec. 253(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 234) repealed sec. 225, which stated congressional findings and a sense of the Congress regarding SDI and the ABM Treaty.

[5] Sec. 331(a) of the Department of Defense Authorization Act, 1987 (Public Law 99–661; 100 Stat. 3816), added the phrase "and for fiscal year 1987 the sum of $10,000,000".

[6] This subsection was added by sec. 331(a) of the Department of Defense Authorization Act, 1987 (Public Law 99–661; 100 Stat. 3816).

to the authorization in this section shall be under the direction of the Secretary of State.

(c) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(d)[6] AUTHORIZATION TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section for fiscal year 1987 to provide for (1) paying administrative costs of providing the transportation described in subsection (a), and (2) providing for the acquisition of transportation assets for the distribution of supplies outside the United States to accomplish the purposes of this section.

(e)[6] AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriation Acts.

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TITLE X—MATTERS RELATING TO ARMS CONTROL[7]

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TITLE XI—MATTERS RELATING TO NATO

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SEC. 1103.[8] NATO COOPERATIVE RESEARCH AND DEVELOPMENT— * * * [Repealed—1989]

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TITLE XIV—GENERAL PROVISIONS

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SEC 1411.[9] CONDITIONS OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

(a) LIMITATION ON FISCAL YEAR 1986 FUNDS.—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions), except in accordance with subsections (b), (c), (d), and (e).

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[7] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

[8] Sec. 931 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1531) codified several sections of title 10 relating to cooperative agreements with NATO and other countries (see secs. 2350a–f), and repealed sec. 1103.

[9] Sec. 1411 was amended and restated by sec. 8093 of the Further Continuing Appropriations, 1986 (Public Law 99–190; 99 Stat. 1217).

(b) NATO CONSULTATION.—Subject to subsections (c), (d), and (e), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

(1) has submitted to the North Atlantic Treaty Organization, a force goal stating the requirement for modernization of the United States proportional share of the NATO chemical deterrent with binary munitions and said force goal has been formally adopted by the North Atlantic Council;

(2) has developed in coordination with the Supreme Allied Commander, Europe, a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

(3) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

(c) CONDITIONS FOR FINAL ASSEMBLY.—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and, subject to subsections (d) and (e), may only be used for such purpose on or after that date if—

(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

(2)[10] the President, after that date, transmits to Congress a certification that—

(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(B) handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner transmitted to Congress, accompany such certification) is ready to be implemented;

(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during

[10] The President transmitted to the Congress certification with respect to the 155mm Binary Chemical Artillery Projectile, on October 16, 1987, as printed in House Document 100–118, October 19, 1987.

peacetime provides that the two components that constitute a binary munition are transported separately.

(d) RESTRICTIONS ON PRODUCTION OF THE BIGEYE BOMB.—Except as provided below, none of the funds appropriated pursuant to authorizations of appropriations in title I may be used for procurement or assembly of the BIGEYE binary chemical bomb or for procurement of components for the BIGEYE bomb until 60 days after the Secretary of Defense has submitted a report describing—

(1) the specific operational requirements which must be achieved by the BIGEYE system; and

(2) the actual performance of the system during operational testing with respect to each of the operational test criteria; and

(3) any exceptions to the operational criteria deemed acceptable by the Department of Defense.

Subject to subsection (b) nothing in this subsection will prohibit the procurement of BIGEYE production facilities and associated equipment.

(e) RESTRICTION ON PRODUCTION OF THE GB–2 ARTILLERY PROJECTILE.—None of the funds appropriated pursuant to authorizations in title I for procurement or assembly of the GB–2 artillery projectile may be obligated or expended before October 1, 1986.

(f) SENSE OF CONGRESS.—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

(g) REPORT.—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

(1) efforts to provide key civilian workers at military support facilities in Europe—

(A) with personal and collective equipment to protect against the use of chemical munitions; and

(B) with the training required for the use of such equipment;

(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and control facilities in European member nations of NATO against chemical attack; and

(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.

SEC. 1412.[11] DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS

(a)[12] IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the "Secretary") shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on November 8, 1985.[13]

(b) DATE FOR COMPLETION.—(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by the stockpile elimination deadline.[14]

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1985), the Secretary may defer, beyond the stockpile elimination deadline,[14] the destruction of not more than 10 percent of the stockpile described in subsection (a)(1).

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline.[15]

(4)[16] If the Secretary determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives[17] of that projected delay.

(5)[16] For purposes of this section, the term "stockpile elimination deadline" means July 31, 1999.[18]

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[11] 50 U.S.C. 1521. See also subtitle G of Public Law 102–484 (106 Stat. 2341).

[12] Sec. 179(1) of Public Law 102–484 (106 Stat. 2347) struck out par. designation (1), and struck out par. (2) in subsec.(a).

[13] Sec. 171(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) struck out "the date of the enactment of this Act" and inserted in lieu thereof "November 8, 1985".

[14] Sec. 118(a)(1) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) struck out "September 30, 1994" and inserted in lieu thereof "the stockpile elimination deadline".

[15] Sec. 118(a)(2) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) struck out "within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier." and inserted in lieu thereof text beginning at "not later than the earlier of * * *".

[16] Sec. 118(a)(3) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) added new par. (4) and (5).

[17] Sec. 1502(b)(6) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 508) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

[18] Sec. 151(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1313) struck out "April 30, 1997" and inserted in lieu thereof "July 31, 1999.

(c) ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.—(1) In carrying out the requirement of subsection (a),[19] the Secretary shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a); and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.

(3)[20] In order to carry out subparagraph (A) of paragraph (1), the Secretary may make grants to State and local governments (either directly or through the Federal Emergency Management Agency) to assist those governments in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a). Funds available to the Department of Defense for the purpose of carrying out this section may be used for such grants. Additionally, the Secretary may provide funds through cooperative agreements with State and local governments for the purpose of assisting them in processing, approving, and overseeing[21] permits and licenses necessary for the construction and operation of facilities to carry out this section. The Secretary shall ensure that funds provided through such a cooperative agreement are used only for the purpose set forth in the preceding sentence.[22]

(d) PLAN.—(1) The Secretary shall develop a comprehensive plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit a copy of such plan to the Congress not later than March 15, 1986.

(4) Such plan shall provide—

(A) an evaluation of the comparison of onsite destruction, regional destruction centers, and a national destruction site both inside and outside of the United States;

(B) for technological advances in techniques used to destroy chemical munitions;

(C) for the maintenance of a permanent, written record of the destruction of lethal chemical agents and munitions carried out under this section; and

(D) a description of—

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[19] Sec. 179(2) of Public Law 102–484 (106 Stat. 2347) struck out "subsection (a)(1)" and inserted in lieu thereof "subsection (a)".

[20] Sec. 172 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) added par. (3).

[21] Sec. 107(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1564) struck out "and approving" and inserted in lieu thereof ", approving, and overseeing".

[22] Text beginning with "Additionally, the Secretary may provide * * *" was added by sec. 151(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1313).

(i) the methods and facilities to be used in the destruction of agents and munitions under this section;

(ii) the schedule for carrying out this section; and

(iii) the management organization established under subsection (e).

(e) MANAGEMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary shall designate a general officer or civilian equivalent[23] as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions;

(B) training in chemical warfare defense operations; and

(C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) IDENTIFICATION OF FUNDS.—Funds for carrying out this section, including funds for military construction projects necessary to carry out this section,[24] shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department.

(g)[25] PERIODIC REPORTS.—(1) Except as provided by paragraph (3),[26] the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2)[27] Each annual report shall contain—

(A) a site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation;[28]

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[23] Sec. 153(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) inserted "or civilian equivalent" after "general officer".

[24] Sec. 142 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2689) inserted ", including funds for military construction projects necessary to carry out this section," after "carrying out this section", and struck out the last sentence of this subsection, which had read as follows: "Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.".

[25] Sec. 153(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "(g) ANNUAL REPORT.—" and inserted in lieu thereof "(g) PERIODIC REPORTS.—".

[26] Sec. 179(3) of Public Law 102–484 (106 Stat. 2347) struck out "paragraph (4)" and inserted in lieu thereof "paragraph (3)"; struck out par. (2), which delineated the requirements of the first report to be filed by December 15, 1985; redesignated pars. (3) and (4) as (2) and (3), respectively.

[27] Sec. 153(b)(2)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "Each such report shall contain—" and inserted in lieu thereof "Each annual report shall contain—". Previously, sec. 179(3) of Public Law 102–484 (106 Stat. 2347) struck from par. (2) "report other than the first one" and inserted in lieu thereof "such report".

[28] Sec. 171(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) struck out "and" at the end of subpar. (A); inserted "; and" in lieu of a period at the end of subpar. (B); and added a new subpar. (C).

(B) an accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

(i) the construction of and equipment for facilities used for the destruction of agents and munitions;

(ii) the operation of such facilities;

(iii) the dismantling or other closure of such facilities;

(iv) research and development;[29]

(v) program management; and

(vi) travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note).

(C)[29] an assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

(i) an estimate on how much longer that stockpile can continue to be stored safely;

(ii) a site-by-site assessment of the safety of those agents and munitions; and

(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.

(3)[30] The Secretary shall transmit the final report under paragraph (1)[31] not later than 120 days following the completion of activities under this section.

(h) PROHIBITION ON ACQUIRING CERTAIN LETHAL CHEMICAL AGENTS AND MUNITIONS.—(1) Except as provided in paragraph (2), no agency of the Federal Government may, after November 8, 1985,[32] develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

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[29] Sec. 153(b)(2)(B) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "and" at the end of clause (iv); struck out a period and inserted "; and" at the end of clause (v); and added clause (vi). Clause (vi) should probably end with "; and" to lead into subparas. (C).

[30] Sec. 1041(d) of Public Law 105–85 (111 Stat. 1885) struck out para. (3), struck out the last sentence in para. (4), and redesignated para. (4) as para. (3). These amendments, in effect, struck out amendments made previously by sec. 153(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216). Former para. (3) read as follows:

"(3) The Secretary shall transmit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a quarterly report containing an accounting of all funds expended (during the quarter covered by the report) for travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note). The quarterly report for the final quarter of the period covered by a report under paragraph (1) may be included in that report.".

The last sentence of para. (3), as redesignated from para. (4) and that sentence struck out by Public Law 105–85, read as follows: 'No quarterly report is required under paragraph (3) after the transmittal of the final report under paragraph (1).".

[31] Sec. 153(b)(5)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "this subsection" and inserted in lieu thereof "paragraph (1)".

[32] Sec. 171(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) struck out "the date of the enactment of this Act" and inserted in lieu thereof "November 8, 1985".

(i) REAFFIRMATION OF UNITED STATES POSITION ON FIRST USE OF CHEMICAL AGENTS AND MUNITIONS.—It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "chemical agent and munition" means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term "lethal chemical agent and munition" means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term "destruction" means, with respect to chemical munitions or agents—

(A) the demolishment of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.

(k)[33] OPERATIONAL VERIFICATION.—(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

(2) Upon its successful completion of the prove out of the equipment and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives[34] a report certifying that the prove out is completed.

(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.

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[33] Sec. 118(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) struck out subsection (k), which had provided an effective date for the provisions of this section to be October 1, 1985, and inserted in lieu thereof subsec. (k) on "Operational Verification".

[34] Sec. 1502(b)(6) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 508) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

SEC. 1413. REPORT CONCERNING THE TESTING OF CHEMICAL WARFARE AGENTS

The Secretary of Defense shall, within 90 days after the date of enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and House of Representatives[35] describing the following matters concerning the testing of diluted or undiluted chemical warfare agents:

(1) The criteria and process used for selecting sites for such testing.

(2) The nature and extent of any consultation carried out with State and local officials before the site for such testing is selected.

(3) The consideration that is given to the proximity of residential dwelling units, schools, child care centers, nursing homes, hospitals, or other health care facilities to the testing site.

(4) Whether an environmental impact statement should be required prior to the approval of a contract for such testing.

(5) Any costs that may have to be incurred by the Federal Government to assist companies that carry out such testing to relocate to more isolated areas.

(6) The degree to which the Secretary estimates that such testing will increase or decrease.

(7) Any recurring problems associated with such testing or the site selection process for such testing.

(8) Any changes in site selection process that are to be implemented by the Secretary or for which legislative action is necessary.

PART C—DRUG INTERDICTION, LAW ENFORCEMENT, AND OTHER SPECIFIC PROGRAMS

SEC. 1421.[36] ENHANCED DRUG-INTERDICTION ASSISTANCE

(a) MANDATORY ASSIGNMENT OF COAST GUARD PERSONNEL ON NAVAL VESSELS.—The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board each surface naval vessel at sea in a drug-interdiction area at least one member of the Coast Guard who is trained in law enforcement and has power to arrest, search, and seize property and persons suspected of violations of law.

(b) LAW ENFORCEMENT FUNCTIONS.—Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) AUTHORIZATION OF NECESSARY COAST GUARD PERSONNEL; FUNDING.—(1) The active-duty military strength level for the Coast

[35] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[36] 14 U.S.C. 89 note.

Guard for fiscal year 1986 is increased by 500. Additional members of the Coast Guard who are on active duty by reason of this subsection shall be assigned to duty as provided in subsection (a).

(2) Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1986, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for the additional personnel authorized by paragraph (1).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "drug-interdiction area" means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

(2) The term "active-duty military strength level for the Coast Guard for fiscal year 1986" means the full-time equivalent strength level for active- duty military personnel of the Coast Guard for fiscal year 1986 required to be maintained by section 3 of the Coast Guard Authorization Act of 1984 (Public Law 98–557; 98 Stat. 2860).

SEC. 1422. ESTABLISHMENT, OPERATION, AND MAINTENANCE OF DRUG LAW ENFORCEMENT ASSISTANCE ORGANIZATIONS OF THE DEPARTMENT OF DEFENSE

(a) AUTHORIZATION OF FUNDS FOR ELEMENTS ASSISTING CIVILIAN DRUG INTERDICTION.—(1) There are authorized to be appropriated to the Department of Defense for fiscal year 1986 such sums as may be necessary for the establishment, operation, and maintenance of airborne surveillance, detection, and interdiction units in the Department of Defense.

(2) There are authorized to be appropriated to the Department of Defense for fiscal year 1986 such sums as may be necessary for the operation and maintenance of the Directorate of the Department of Defense Task Force on Drug Law Enforcement.

(b) COMMAND, CONTROL, AND COORDINATION.—A special operations headquarters element shall provide necessary command, control, and coordination of appropriate active or Reserve Component special operations forces, combat rescue units, and other units for participation by such forces and units in drug law-enforcement assistance missions.

(c) REPORT ON PLANS TO ENHANCE COOPERATION WITH CIVILIAN DRUG ENFORCEMENT AGENCIES.—Not later than December 1, 1985, the Secretary of Defense shall submit to the committees on Armed Services of the Senate and the House of Representatives[37] a report on the manner in which the Department of Defense plans to obligate and expend funds appropriated or expected to be appropriated pursuant to the authorizations contained in this section. The report shall include a description of—

(1) actions or proposed actions to establish, operate, and maintain reserve component forces, airborne surveillance, detection, and interdiction units, including—

(A) actions or proposed actions to consolidate or establish, in a Special Operations Wing of the Air Force (reserve

[37] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

or active component), command, control, and coordination of Air Force Special Operations aircraft (including aircraft assigned to the Special Operations Wing of the Regular Air Force on or before March 1, 1985); and

(B) in the case of any such aircraft which are not to remain assigned to a Special Operation Wing of the Air Force, the disposition or planned disposition of those aircraft;

(2) actions and proposed actions to use rotary-wing and fixed-wing aircraft of the Department of Defense as well as other measures necessary to furnish (commensurate with military readiness and the provisions of chapter 18 of title 10, United States Code) optimal support to civilian law enforcement agencies; and

(3) actions and proposed actions to promote dual use between the reserve component forces and civilian law enforcement agencies of the Department of Defense aircraft and other Department of Defense resources made available to civilian law enforcement agencies for the purpose of carrying out drug interdiction missions.

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SEC. 1424. STUDY ON THE USE OF THE E–2 AIRCRAFT FOR DRUG INTERDICTION PURPOSES

(a) STUDY BY SECRETARY OF THE NAVY.—The Secretary of the Navy shall conduct a test of the use of E–2 aircraft of the Navy to determine the effectiveness of that aircraft in drug interdiction. The study shall be conducted along the border between the United States and Mexico and shall be carried out over a period of 6 months.

(b) COLLECTION OF DATA.—As part of the test, the Secretary shall collect data on the contribution on the use of the E–2 aircraft to the apprehension of drug smugglers. This data shall include the number of intercepts which resulted in apprehensions.

(c) REPORT.—Not later than September 30, 1986, the Secretary shall submit to Congress a report on the results of the study.

SEC. 1425. STRATEGIC BOMBER PROGRAMS

(a) SENSE OF CONGRESS REGARDING THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE.—It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber program and the Advanced Cruise Missile program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) PROHIBITION ON USE OF FUNDS FOR ATB AND ACM FOR ANY OTHER PURPOSE.—None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology Bomber program or the Advanced Cruise Missile program may be used for any other purpose.

(c) SENSE OF CONGRESS ON B–1B BOMBER PROGRAM.—It is the sense of Congress that, consistent with the stated policy of the Department of Defense, the B–1B bomber aircraft procurement program should be terminated after acquisition under such program of 100 aircraft.

(d) LIMITATION ON NUMBER OF B–1B AIRCRAFT TO BE PROCURED.—None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended for the conduct of research, design, demonstration, development, or procurement of more than 100 B–1B bomber aircraft (including any derivative or modified version of such aircraft).

SEC. 1426. RESTRICTIONS ON CERTAIN NUCLEAR PROGRAMS

(a) RESTRICTION ON FUNDING FOR MX MISSILE WARHEAD.—None of the funds appropriated pursuant to an authorization provided in this or any other Act may be obligated or expended for the production of W–87 warheads for the MX missile program in excess of the numbers of warheads required to arm the number of such missiles authorized by the Congress to be deployed and determined by the President to be necessary for quality assurance and reliability testing.

(b) EMPLOYMENT OF THE STANDARD MISSILE (SM–2(N)).—Except for the studies and report required by this section, none of the funds authorized to be appropriated by this Act may be expended for research, development, test, or procurement associated with a nuclear variant of the Standard Missile (SM–2(N)) or any associated nuclear warhead until 30 calendar days after the Secretary of the Navy submits to the Committees on Armed Services of the Senate and House of Representatives [38] a report which includes the following information:

((1) A description of the circumstances under which the SM–2(N) would be used and an assessment of likely enemy response (including countermeasures).

(2) A description of the release procedures and circumstances under which release would be authorized for employment of the SM–2(N).

(3) An analysis of conventional alternatives to the SM–2(N), including any necessary modification to the SM–2 or alternative to the Standard Missile or warhead, and the associated costs of those alternatives.

(4) A summary of all studies previously conducted analyzing the impact of the use of nuclear naval surface-to-air missiles on our own vessels and electronics.

(5) A list of all United States ships which may receive the SM–2(N).

[38] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(6) The number of additional conventional armed missiles which could be carried by United States ships if the SM–2(N) were not deployed and the impact on fleet air defense from that reduced conventional load.

(7) Any plans or programs for the development of a nuclear naval surface- to-air or air-to-air missile for fleet defense other than the SM–2(N).

(c) REPORT ON REQUIREMENTS FOR SPECIAL NUCLEAR MATERIALS.—(1) Not later than March 1, 1986, the Secretary of Defense and the Secretary of Energy, after consultation with the Joint Chiefs of Staff and the Director of the Arms Control and Disarmament Agency, shall submit a report to the Committees on Armed Services of the Senate and House of Representatives[38] detailing the military requirements for special nuclear materials through fiscal year 1991. The report shall include findings and recommendations concerning—

(A) requirements for production of plutonium, highly enriched uranium, and other special nuclear materials; and

(B) the recovery of special nuclear materials for military uses that have been transferred from military uses to civilian research and development uses.

(2) The report should also—

(A) address the availability of special nuclear materials to be derived from the retirement of existing nuclear weapons;

(B) address the feasibility of meeting military needs for special nuclear materials through the blending of high grade and low grade materials stocks;

(C) assess the impact of new materials separation, purification, and production technologies on nuclear proliferation; and

(D) contain the views of the Joint Chiefs of Staff and the Director of the Arms Control and Disarmament Agency.

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PART E—MISCELLANEOUS PROVISIONS

SEC. 1451. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

It is the sense of Congress that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1452. SENSE OF CONGRESS CONCERNING PROTECTION OF UNITED STATES MILITARY PERSONNEL AGAINST TERRORISM

(a) FINDING.—The Congress finds that the protection of members of the Armed Forces against terrorist activity is among the highest national security concerns of the United States.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of Congress that—

(1) the President should be supported in the vigorous exercise of his powers as Commander-in-Chief to protect members of the Armed Forces against terrorist activity; and

(2) such exercise of power should include the use of such measures as may be appropriate and consistent with law.

SEC. 1453. READINESS OF SPECIAL OPERATIONS FORCES

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the first duty of the Government is to provide for the common defense, including safeguarding the peace, safety, and security of the citizens of the United States;

(2) the incidence of terrorist, guerrilla, and other violent threats to citizens and property of the United States has rapidly increased;

(3) the special operations forces of the Armed Forces provide the United States with immediate and primary capability to respond to terrorism; and

(4) the special operations forces are the military mainstay of the United States for the purposes of nation-building and training friendly foreign forces in order to preclude deployment or combat involving the conventional or strategic forces of the United States.

(b) SENSE OF THE CONGRESS.—In view of the findings in subsection (a), it is the sense of the Congress that—

(1) the revitalization of the capability of the special operations forces of the Armed Forces should be pursued as a matter of the highest priority;

(2) personnel and other resources allocations should reflect the priority referred to in paragraph (1);

(3) the political and military sensitivity and the importance to national security of the special operations forces require that the Office of the Secretary of Defense should improve its management supervision of such forces in all aspects of the special operations mission area;

(4) the joint command and control of the special operations forces must permit direct and immediate access by the President and Secretary of Defense; and

(5) the commanders-in-chief of the unified commands should have available, within their operational areas of responsibility, sufficient special operations assets to execute the operations plans for which they are responsible or to support additional contingency operations directed from the national level.

* * * * * * *

u. Department of Defense Authorization Act, 1985

Partial text of Public Law 98–525 [H.R. 5167], 98 Stat. 2492, Approved October 19, 1984 as amended by Public Law 99–145 [Department of Defense Authorization Act, 1986; S. 1160], 99 Stat. 619, Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987, S. 2368] 100 Stat. 3816, approved November 14, 1986; Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993, H.R. 2100], 105 Stat. 1290, approved December 5, 1991; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

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

* * * * * * *

TITLE I—PROCUREMENT

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

Sec. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organization as follows:

For acquisition of the Patriot missile system for the Federal Republic of Germany, $150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $65,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $15,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, $10,000,000.

For acquisition of point air defense of United States airbases in Turkey, $10,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives[1] a copy of each government-to-government agreement relating to that program; or

(2) for acquisitions in connection with a NATO cooperative program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

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LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

Sec. 107.[2] The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 762A of the Department of Defense Appropriations Act, 1984 (Public Law 98–212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

Sec. 108.[2] The Arms Export Control Act shall be administered as if section 743A of the Department of Defense Appropriation Act, 1984 (Public Law 98–212; 96 Stat. 1858) had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN COUNTRIES

Sec. 109.[3] Section 765(c) of the Department of Defense Appropriation Act, 1984 (Public Law 98–212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

Sec. 110. (a) Subject to subsections (b) and (c), of the funds appropriated pursuant to the authorization of appropriations in section 103 for procurement of missiles for the Air Force, $2,500,000,000 may be used for the MX missile program, including acquisition of not more than 21 additional operational MX missiles.

(b) Except as provided in subsection (c), none of the $2,500,000,000 described in subsection (a) may be obligated for the procurement of additional operational MX missiles unless—

(a) after March 1, 1985, the President submits to Congress a report described in subsection (e);

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[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[2] Although secs. 107 and 108 lifted these restrictions concerning certain provisions of the Arms Export Control Act as they applied during fiscal year 1984, similar restrictions were reenacted as secs. 8036 and 8055 of the Department of Defense Appropriation Act, 1986.

[3] Sec. 765(c) had prohibited the use of funds provided in Public Law 98–212 to sell or otherwise provide the AN/SQR–19 Towed Array Sonar to any foreign country.

(2) a joint resolution approving the obligation of those funds is enacted as provided for in this section; and

(3) a second joint resolution is enacted as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), further approving the obligation of those funds.

(c) Of the $2,500,000,000 described in subsection (a), $1,000,000,000 may be obligated only for—

(1) procurement related to the deployment of the 21 MX missiles for which funds were authorized and appropriated for fiscal year 1984;

(2) advance procurement of parts and materials for the MX missile program and for the maintenance of the MX missile program contractor base; and

(3) spare parts for the MX missile program.

(d)(1) For the purpose of subsection (b)(2), "joint resolution" means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by Congress the matter after the resolving clause of which is as follows: "That subject to the enactment (after the enactment of this joint resolution) of a joint resolution further approving the obligation of such funds, the Congress approves the obligation of funds appropriated for fiscal year 1985 for the procurement of additional operational MX missiles (in addition to the funds previously authorized to be obligated)."

(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives.[4] A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution approving the further obligation of funds for the procurement of operational MX missiles as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolu-

[4] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

tion (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supercedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) A report under subsection (b)(1) shall include—

(1) a statement that the President has determined that further acquisition of operational missiles under the MX missile

program is in the national security interest of the United States and is consistent with United States arms control policy;

(2) findings of the President concerning the effect of the acquisition and deployment of such missiles on the vulnerability of the United States land-based intercontinental ballistic missile force;

(3) a discussion of the basing mode for the MX missile (and related improvements in silo-hardening technology) and of proposals for the basing mode for the small, single-warhead intercontinental ballistic missile; and

(4) to the extent not covered under paragraphs (1) through (3), the assessment of the President submitted pursuant to subsection (g)(2).

(f) Obligation for the MX missile program of funds appropriated for fiscal year 1985 is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 693).

(g)(1) Section 1231(e) of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 694) is amended—

(A) by striking out "the Committee on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Congress";

(B) by striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 24, 1983,";

(C) by striking out "and" at the end of clause (B);

(D) by striking out the period at the end of clause (C) and inserting in lieu thereof "; and"; and

(E) by adding at the end thereof the following new clause:

"(D) the progress of efforts to develop more survivable basing modes for the MX and other intercontinental missiles, including a new small mobile intercontinental ballistic missile.".

(2) The first assessment under section 1231(e) of the Department of Defense Authorization Act, 1985, submitted after the date of the enactment of this Act shall be submitted as part of the report described in subsection (e) (rather than coincident with any request for funds for the procurement of MX missiles submitted to Congress before the submission of that report).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

Sec. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components or for the establishment of a production base for such munitions.

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FOREIGN MILITARY SALES OF AIR NATIONAL GUARD OA–37 AIRCRAFT

Sec. 113. It is the sense of Congress—

(1) that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units currently using OA–37 Dragonfly aircraft in order

to fulfill Forward Air Controller (FAC) mission of the Air National Guard; and

(2) that the United States should not sell or otherwise provide to any foreign country any OA–37 aircraft currently assigned to an Air National Guard unit unless the unit to which such aircraft is assigned is in the process of converting to the use of a more modern aircraft or unless the OA–37 aircraft to be sold or otherwise provided to a foreign country has been replaced with an OA–37 from the stocks of the Air Force.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

Sec. 205.[5] *** * ***

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TITLE III—OPERATION AND MAINTENANCE

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SALE OF ARTICLES MANUFACTURED BY CERTAIN ARSENALS; ASSET CAPITALIZATION PROGRAM

Sec. 305.[6] *** * ***

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SENSE OF CONGRESS CONCERNING INTRODUCTION OF UNITED STATES ARMED FORCES INTO CENTRAL AMERICA FOR COMBAT

Sec. 310.[7] (a) The Congress makes the following findings:

(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

(b) It is the sense of Congress that—

(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

(2) if circumstances change from those present on the date of the enactment of this Act and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before

[5] Sec. 205 amended sec. 1235 of the Department of Defense Authorization Act, 1984.

[6] Sec. 305 added a new sec. 2208(i) to title 10, United States Code, concerning the sale of articles manufactured by certain arsenals (redesignated as sec. 4543).

[7] 50 U.S.C. 1541 note.

any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution.

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TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

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PERSONAL VEHICLES OF UNITED STATES MILITARY PERSONNEL IN JAPAN

Sec. 653. (a) The Congress finds that—

(1) the Government of Japan does not permit members of the Armed Forces of the United States to take their motor vehicles into Japan for their personal use while assigned to a duty station in Japan unless such vehicles are modified to satisfy certain requirements of the Government of Japan;

(2) as a result of the restriction referred to in clause (1), members of the Armed Forces typically need to sell their personal motor vehicles before departing the United States to report to a duty station in Japan, to purchase vehicles in Japan for personal use while stationed in Japan, to sell such purchased vehicles before departing Japan to return to the United States, and to purchase vehicles in the United States upon their return;

(3) members of the Armed Forces incur a substantial financial burden in connection with the repeated sale and replacement of personal vehicles;

(4) the United States permits members of the Armed Forces of foreign nations to bring unmodified vehicles into the United States for their personal use while assigned to duty stations in the United States; and

(5) the United States provides a substantial contribution to the defense of Japan and the waters surrounding Japan.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President, acting through the Secretary of Defense and the Secretary of State, should enter into negotiations with the Government of Japan for the purpose of obtaining the agreement of such government not to require the modification of the personal motor vehicles of members of the Armed Forces of the United States brought into Japan for the personal use while stationed in Japan.

(c) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall transmit to the Congress a written report relating to the matters described in subsection (a). The report shall include—

(1) a description of any negotiations carried out with the Government of Japan; and

(2) a description of the other actions the Government of the United States can reasonably take to obtain an agreement described in subsection (b).

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TITLE X—MATTERS RELATING TO NATO AND OTHER ALLIES

SENSE OF CONGRESS RELATING TO INCREASE IN DEFENSE SPENDING BY UNITED STATES ALLIES

Sec. 1001.[8] It is the sense of Congress that the President—

(1) should call on the pertinent member nations of the North Atlantic Treaty Organization to meet or exceed their pledges for an annual increase in defense spending during fiscal years 1984 and 1985 of at least 3 percent real growth; and

(2) should call on Japan to further increase its defense spending during fiscal years 1984 and 1985;

in furtherance of increased unity; equitable sharing of the common defense burden, and international stability.

IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

Sec. 1002.[8] (a) The Congress finds—

(1) that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the period of time that Western Europe can be defended by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a non-nuclear attack on any NATO member country;

(2) that fulfillment by NATO member nations of their goals and commitments to increase defense spending, improve conventional sustainability, and provide support facilities in Western Europe for rapid reinforcements from the United States is crucial to accomplishing that objective; and

(3) that an increase over current United States military personnel levels in European member nations of NATO can be justified only if these goals and commitments are substantially met by NATO member nations (other than the United States).

(b) The Congress urges the President and the Secretary of Defense to continue to encourage member nations of NATO (other than the United States) to work expeditiously to fulfill the following commitments they have undertaken:

(1) To achieve and maintain an annual increase in their defense spending of at least 3 percent after inflation.

(2) To acquire a 30-day supply of air and ground munitions among those NATO members which have committed forces to the Northern, Center, and Southern Regions.

(3) To construction of the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, as a minimum, the annual commitment of United States reinforcing tactical aircraft.

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[8] 22 U.S.C. 1928 note. See also sec. 1046—Defense Cost-Sharing—in Public Law 102–190 (105 Stat. 1466).

(c)[9] (1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.

(2) If the Secretary of Defense certifies to the Congress in writing during any fiscal year after fiscal year 1985 that during the previous fiscal year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity consistent with the goals set forth in subsection (b) which contributes to lengthening the time period between an armed attack on any NATO country and the time the Supreme Allied Commander, Europe, would have to request the release and use of nuclear weapons, the Congress would give strong consideration to authorizing an increase in the permanent ceiling prescribed in paragraph (1) for fiscal years after such fiscal year.

(3)[10] For purposes of this subsection, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO:

(A) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

(B) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.

(d)[11] The Secretary of Defense shall submit to the Committee on Armed Services of the Senate, the Committee on National Security

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[9] Sec. 1303(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2889) amended and restated subsec. (c)(1), effective October 1, 1995. The para. formerly read as follows, as amended:

"(c)(1) No appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 235,700. The Secretary of Defense may exceed such permanent ceiling in any year by a number equal to not more than ½ of 1 percent for the purpose of achieving sound management in the rotation of members of the Armed Forces of the United States to and from assignment to permanent duty ashore in European member nations of NATO, but only if the Secretary determines that the increase in such year is necessary for such purpose. In any fiscal year for which the permanent ceiling specified in the first sentence of this subsection is 235,700, the President may authorize an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization at a level not to exceed 261,855 if the President determines that the national security interests of the United States require such authorization. Whenever the President exercises the authority provided under the preceding sentence, the President shall notify Congress of that determination and of the necessity for exceeding such permanent ceiling.".

The paragraph had been previously amended by sec. 1101 of the Department of Defense Authorization Act of 1986 (Public Law 99–145; 99 Stat. 707); sec. 911 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1523); sec. 406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1546); and sec. 1042(a) and (b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1462);

[10] Sec. 1303(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2889) added para. (3). It was amended and restated by sec. 1334(a) of Public Law 104–106 (110 Stat. 484).

[11] Sec. 1412(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1828) struck out par. (2), which had required the Secretary of Defense file a biennial report on "the status and cost of the United States commitment to NATO as reflected in the DPQ Response and in the defense budget request"; struck out par. designation (1) and the opening phrase "(1) Not later than April 1, 1985, and each year thereafter," in subsec. (d); and redesignated former clauses (A) and (B) as pars. (1) and (2).

Continued

of the House of Representatives[12] a report on the status, as of January 1 of the year in which the report is submitted, of the following matters:

(1) The number of days of supply of the ground and aerial munitions in hand or on order of the member nations of NATO (other than the United States) which have committed forces to the Northern, Center, and Southern Regions.

(2) The number of facilities and semihardened aircraft shelters completed or under construction as they relate to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response of the previous year.

(e)(1) The Congress finds that a viable "two-way street" of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

(2)(A) In addition to any funds appropriated pursuant to the authorization contained in section 201 for the activities of the Director of Test and Evaluation, Defense, the Director may use an additional amount, not to exceed $50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act. (Items that may be acquired under this paragraph include submunitions and dispensers, anti-tank and anti-armor guided missiles, mines, runway-cratering devices, torpedoes, mortar systems, light armored vehicles, and high-velocity anti-tank guns.)

(f)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

Sec. 1003.[13] (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to

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Sec. 1313(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2894) provided the following:

"(c) REPORT.—The Secretary of Defense shall include in the annual report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following:

"(1) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO and an analysis of the cost of providing and maintaining such forces in such assignment primarily for support of NATO roles and missions.

"(2) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such forces in such assignment primarily for that purpose.

"(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military forces in Europe that the United States received from other NATO member nations in the fiscal year covered by the report, set out by country and by type of assistance, including both in-kind assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year covered by the report.".

[12] Sec. 1502(c)(8) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 508) struck out "the Committees on Armed Services of the Senate and the House of Representatives" and inserted in lieu thereof "the Committee on Armed Services of the Senate, the Committee on National Security of the House of Representatives".

[13] 22 U.S.C. 1928 note. Sec. 324 of Public Law 102–484 (106 Stat. 2367) provided the following:

the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

(1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each member nation of the North Atlantic Treaty Organization (NATO) agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently;

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

"SEC. 324. OVERSEAS ENVIRONMENTAL RESTORATION.

"(a) SENSE OF CONGRESS.—It is the sense of the Congress that in carrying out environmental restoration activities at military installations outside the United States, the President should seek to obtain an equitable division of the costs of environmental restoration with the nation in which the installation is located.

"(b) REPORT.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928) information, in classified and unclassified form, describing the efforts undertaken and the progress made by the President in carrying out subsection (a) during the period covered by the report.".

(c)[14] The Secretary of Defense shall submit to the Congress by March 1, 1998, and every other year thereafter, not later than April 1,[15] a classified report containing—

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of NATO, and by Japan based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(2) a description of efforts by the United States and the efforts of other members of the alliances to eliminate any existing disparities;

(3) projected estimates of the real growth in defense spending for the fiscal year in which the report is submitted for each NATO member nation;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in the fiscal year immediately preceding the fiscal year in which the report is submitted;

(5) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(6) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(7) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (2) and (5) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

(d) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under subsection (a) an unclassified report containing the matters set forth in clauses (1) through (7) of such subsection.

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[14] Sec. 1412(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829) provided the following:

"(c) FINDING AND SENSE OF CONGRESS.—(1) The Congress finds that the Secretary of Defense did not submit to Congress in a timely manner the report on allied contributions to the common defense required under section 1003(c) of the National Defense Authorization Act, 1985 (Public Law 98–525; 22 U.S.C. 1928 note), to be submitted not later than April 1, 1993.

"(2) It is the sense of Congress that the timely submission of such report to Congress each year is essential to the deliberation by Congress concerning the annual defense program.".

[15] Sec. 1312(c)(3) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1670) struck out "March 1" and inserted in lieu thereof "April 1". Subsequently, sec. 1084(e) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2675) struck out "each year", and inserted in lieu thereof "by March 1, 1998, and every other year thereafter".

NATO SEASPARROW COOPERATIVE PROGRAM

Sec. 1004. The Secretary of the Navy is authorized to continue participation, in accordance with current operating procedures, in the North Atlantic Treaty Organization SEASPARROW Surface Missile System Cooperative Consortium, as described in the Memorandum of Understanding between the United States, Denmark, Norway, Italy, the Netherlands, Belgium, Canada, Greece, and Federal Republic of Germany, signed by the United States on June 6, 1968, and the Memorandum of Understanding between the same countries, signed by the United States on May 20, 1977.

PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

Sec. 1005.[16] * * *

POLICY ON ARMAMENTS COOPERATION WITH NATO MEMBER COUNTRIES

Sec. 1006. Not later than May 1, 1985, the Secretary of Defense shall transmit to Congress a report setting forth a comprehensive proposal by which the United States and NATO member countries may achieve the objectives described in section 1122(b) of the Department of Defense Authorization Act, 1983 (Public Law 97–252; 96 Stat. 755).

AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE

Sec. 1007. (a) During fiscal year 1985, the Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements during that year, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) In connection with the administration of the European air defense agreements during fiscal year 1985, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A));

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency (A) for the supply of logistic support in Europe for the Patriot missile system, and (B) for the acquisition of such logistic support, to the extent

[16] Sec. 1005 added a new sec. 2401a to 10 U.S.C (redesignated as sec. 2350f).

that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of set- up charges of facilities for use by that agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) deliver to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the requirement in section 22 of that Act (22 U.S.C. 2762) for payment in advance of delivery for any purchase under that Act.

(c) Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of the 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under that Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

(d) For the purposes of this section, the term "European air defense agreements" means (1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983, and (2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Federal Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

(e) The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds are otherwise available for that purpose.

TITLE XI—MATTERS RELATING TO ARMS CONTROL [17]

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TITLE XV—GENERAL PROVISIONS

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PART B—PROVISIONS RELATING TO SPECIFIC PROGRAMS

CHEMICAL WARFARE REVIEW COMMISSION

Sec. 1511. (a) The President shall establish a bipartisan commission to be known as the "Chemical Warfare Review Commission". The Commission shall review the overall adequacy of the chemical warfare posture of the United States with particular emphasis on the question of whether the United States should produce binary

[17] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. F.

chemical munitions, and shall report its findings and recommendations to the President not later than April 1, 1985. In developing its recommendations, the Commission shall consider—

(1) the relationship of chemical stockpile modernization by the United States with the ultimate goal of the United States of achieving a multilateral, comprehensive, and verifiable ban on chemical weapons;

(2) the adequacy of the existing United States stockpile of unitary chemical weapons in providing a credible deterrent to use by the Soviet Union of chemical weapons against United States and allied forces;

(3) whether the binary chemical modernization program proposed by the Department of Defense is adequate to support United States national security policy by posing a credible deterrent to chemical warfare; and

(4) the ability of defensive measures alone to meet the Soviet chemical warfare threat and the adequacy of funding for current and projected defensive measure programs.

(b) The President shall submit to Congress the report of the Commission, together with the President's comments on the report, not later than April 1, 1985.

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PART C—MISCELLANEOUS DEFENSE REPORTING REQUIREMENTS

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STUDY OF FOREIGN SALES AND PROCUREMENT OF DEFENSE ARTICLES

Sec. 1522. (a)(1) The Secretary of Defense, in consultation with the heads of other appropriate Federal agencies, shall carry out a study to assess how the adequacy of the industrial base of the United States in the event of a war or national emergency is affected—

(A) by procurement by the Department of Defense of defense articles that are produced outside the United States or that are assembled from components, or fabricated from materials, produced outside the United States; and

(B) by sales by the Department of Defense or commercial manufacturers of defense articles manufactured in the United States to purchasers outside the United States.

(2) For the purposes of this section, the term "foreign-component defense article" means a defense article—

(A) that was produced outside the United States;

(B) that was assembled from over 50 percent components, or fabricated from over 50 percent materials, produced outside the United States; or

(C) that contains a major component that was produced outside the United States.

(b) The study under subsection (a) shall assess the effects of restrictions on the procurement of foreign-component defense articles on the overall United States balance of trade, on the balance of trade in defense articles, on treaties currently in effect, on the budgetary cost of national defense, on existing memoranda of understanding, on United States military alliances, and on efforts to

increase the rationalization, standardization, and interoperability of articles used by North Atlantic Treaty Organizations forces.

(c) Restrictions to be considered for the purposes of subsection (b) shall include—

(1) a prohibition on procurement of foreign-component defense articles;

(2) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source unless there is also a domestic producer of the article;

(3) a prohibition on procurement of defense articles (and major components of defense articles) from a country with which the United States has an unfavorable balance of trade in defense articles; and

(4) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source of more than 50 percent of the total quantity of the defense article (or major component) to be procured.

(d) The study under subsection (a) shall consider circumstances and requirements under a war or national emergency of both a brief duration and a long duration.

(e) A report of the study under subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives [18] not later than October 15, 1985.

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REPORT ON AMERICANS UNACCOUNTED FOR OR MISSING IN INDOCHINA

Sec. 1525. (a) The Congress finds that—

(1) the President has declared that the issue of the 2,483 Americans missing or otherwise unaccounted for the Indochina is an issue of the highest national priority and has initiated high level discussions with the Governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) the Congress, on a bipartisan basis, fully supports these initiatives and realizes that the fullest possible accounting of those Americans can only be achieved with the cooperation of those governments;

(3) the Government of the Lao People's Democratic Republic has recently taken positive actions to assist the United States Government in resolving the status of those missing Americans; and

(4) the Government of the Socialist Republic of Vietnam has pledged to cooperate with the Government of the United States in resolving this humanitarian issue, separate from other issues dividing the two countries.

(b) The Congress strongly urges the President—

(1) to ensure that officials of the United States Government conscientiously and fully carry out the pledge of the President to commit the full resources of the United States Government

[18] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

to resolve the issue of the 2,483 Americans still missing or otherwise unaccounted for in Indochina;

(2) to pursue vigorously all reports concerning sightings of live Americans who may be among those missing or otherwise unaccounted for in Indochina;

(3) to work to achieve the fullest possible accounting of all Americans missing or otherwise unaccounted for in Indochina;

(4) to seek the immediate return of the remains of all Americans who have died in Indochina and whose remains have not been returned; and

(5) to make every effort to secure the further cooperation of the Lao People's Democratic Republic and the Socialist Republic of Vietnam in resolving this humanitarian issue of fundamental importance.

(c) The Congress calls upon the Socialist Republic of Vietnam and the Lao People's Democratic Republic to accelerate cooperation with the United States in achieving the fullest possible accounting for Americans still missing in Indochina.

(d) Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report detailing actions being taken by the United States Government described in subsection (b).

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PART D—MISCELLANEOUS DEFENSE-RELATED MATTER

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AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO FOREIGN COUNTRIES [19]

Sec. 1540. (a) Notwithstanding any other provision of law, during fiscal year 1987,[20] the Secretary of Defense may transport on a space available basis, at no charge, to any country in any area of the world [19] goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance.

(b)(1) The President shall institute procedures, including complete inspection prior to acceptance for transport, for determining that—

(A) the transport of any goods and supplies transported under this section is consistent with foreign policy objectives;

(B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such goods and supplies;

(D) the goods and supplies will in fact be used for humanitarian purposes; and

(E) there are adequate arrangements for the distribution of such goods and supplies in the country of destination.

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[19] Sec. 306 (a) and (b) of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 617), amended sec. 1540(a) and the caption above it by authorizing transport to "foreign countries" or to "any area of the world" in lieu of "Central America".

[20] Sec. 332 of Public Law 99–661 (100 Stat. 3857) struck out "fiscal years 1985 and 1986" and inserted in lieu thereof "fiscal year 1987".

(2) Goods and supplies determined not to meet the criteria of paragraph (1) may not be transported under this section.

(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, or international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verification of adequate arrangements has been received in advance for distribution of such goods and supplies.

(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in military or paramilitary activity.

(e) No later than 90 days after the date of the enactment of this section, and every 60 days thereafter, the Secretary of State shall report to the Congress concerning the origin, contents, destination, and disposition of all goods and supplies transported under this section.

PART E—OTHER MISCELLANEOUS MATTERS

SURVIVORS OF THE GLOMAR JAVA SEA

Sec. 1541. (a) The Congress finds that—

(1) on October 26, 1983, the United States registered oil drilling ship Glomar Java Sea was reported missing during stormy weather at its drilling site 60 miles off Hainan Island in the South China Sea and was found sunken near its drilling site on November 1, 1983;

(2) no evidence has been found of 46 of the 81 crewmen, including citizens of the United States, or of the lifeboats which, reportedly, were launched from the Glomar Java Sea, despite an intensive cooperative search involving United States military search and rescue aircraft and commercial vessels;

(3) the Chairman of the United States Coast Guard Marine Board of Investigation has concluded that it is possible that crewmembers of the Glomar Java Sea survived and drifted into waters near the coast of Vietnam; and

(4) the Government of Vietnam has refused to allow an independent search for the possible survivors to be conducted in waters within 20 miles of such coast.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President should, through all appropriate bilateral and multilateral channels, continue and accelerate the effort to obtain the cooperation of the Government of Vietnam in ascertaining the fate or locations of the 46 crewmen of the sunken United States registered vessel Glomar Java Sea.

POLICY REGARDING THE FURNISHING OF FOOD AND MEDICAL SUPPLIES TO AFGHANISTAN

Sec. 1542. (a) The Congress finds—

(1) that after more than four years of occupation by the military forces of the Soviet Union, the freedom-loving people of Afghanistan continue to resist the oppression of the Soviet Union;

(2) that the current Soviet Union offensive has resulted in great suffering and destruction in Afghanistan and has intensified the Soviet policy which targets civilian populations; and

(3) that this "scorched earth" policy of the Soviet Union, which has resulted in the destruction of crops, food supplies, farms, hospitals, and other public buildings in Afghanistan, has been a desperate attempt on the part of the Soviet Union to subdue the population of that country or to force the depopulation of certain areas which the occupying forces of the Soviet Union are unable to control.

(b) It is, therefore, the sense of Congress that the free world should take all appropriate steps to ensure that the people of Afghanistan have the necessary food and medical supplies adequate to sustain themselves while they are being ravaged by the invading forces of the Soviet Union.

REAFFIRMATION OF UNITED STATES POLICY TOWARD CUBA

Sec. 1543. (a) It is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the joint resolution entitled "Joint resolution expressing the determination of the United States with respect to the situation in Cuba", approved by the President on October 3, 1962 (Public Law 87–733; 76 Stat. 697).[21]

(b) Nothing in this section shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, the Foreign Assistance Act of 1961, or the War Powers Resolution. This section does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

REPORT ON USE OF CUBAN AND RUSSIAN NICKEL IN DEFENSE PROCUREMENTS

Sec. 1544. Not later than April 1, 1985, the Secretary of Defense shall submit to Congress a report on the effects on the national security of the United States of procurement by the Department of Defense of products containing nickel produced in Cuba or the Soviet Union. The report shall be prepared after consultation with the Secretaries of Commerce, the Interior, and the Treasury.

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TITLE XVII—UNITED STATES INSTITUTE OF PEACE[22]

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[21] For text, see *Legislation on Foreign Relations Through 1997*, vol. II, sec. G.

[22] Title XVII, cited as the United States Institute of Peace Act, can be found in *Legislation on Foreign Relations Through 1997*, vol. II, sec. D.

v. Department of Defense Authorization Act, 1984

Partial text of Public Law 98–94 [S. 675], 97 Stat. 614, approved September 24, 1983; as amended by Public Law 98–525 [Department of Defense Authorization Act, 1985; H.R. 5167], 98 Stat. 2492 at 2574, approved October 19, 1984; and by Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

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

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TITLE XI—NATO AND RELATED MATTERS

NORTH ATLANTIC DEFENSE COOPERATIVE PROGRAMS

Sec. 1101. In order to fulfill the international obligations incurred by the United States under the North Atlantic Treaty Organization's Long-Term Defense Program for the rapid reinforcement of Europe, and recognizing that such action is in the national interest of the United States, the Secretary of Defense shall carry out commitments of the United States under the United States-German Wartime Host Nation Support Agreement of April 15, 1982, and under the Prepositioned Materiel Configured in Unit Sets (POMCUS) program by the earliest practicable date. The Secretary of Defense shall include in his annual report to the Congress a statement describing the status of implementation of such agreement and program, including his assessment of whether our allies are bearing their equitable share under such agreement and program and whether the implementation of such agreement and program adversely affects the readiness of the reserve components of the Armed Forces of the United States.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

Sec. 1102.[1] (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

[1] 22 U.S.C. 1928 note.

(1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each NATO member nation agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently and performance toward this goal in 1983 is estimated to be the most deficient, on average, since the goal was established;

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c)(1) The Secretary of Defense shall submit to the Congress not later than March 1, 1984, a classified report containing—

(A) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(B) a description of efforts by the United States and of other efforts to eliminate existing disparities;

(C) estimates of the real growth in defense spending in fiscal year 1983 projected for each NATO member nation compared with the annual real growth goal in the range of 3 percent set in May 1978;

(D) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1984;

(E) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(F) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(G) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (B) and (E) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

(2) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under paragraph (1) an unclassified report containing the matters set forth in clauses (A) through (G) of such paragraph.

LIMITATION ON NUMBER OF MILITARY PERSONNEL STATIONED IN EUROPE

Sec. 1103. (a) Except as provided in subsections (b) and (c), none of the funds authorized to be appropriated by this or any other Act may be used for the purpose of supporting an end-strength level, as of September 30, 1984, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level in excess of 315,600.

(b) A number of United States military personnel in excess of 315,600, but not in excess of 320,000, may be permanently assigned to duty ashore in such European nations as of September 30, 1984, if—

(1) the Secretary of Defense determines and certifies to the Congress in writing that on September 30, 1984, the total number of military personnel of NATO member nations, other than the United States, stationed in the Federal Republic of Germany will not be less than the total number of military personnel of such member nations stationed in that country on the date of the enactment of this Act;

(2) the Secretary of Defense certifies to the Congress in writing on or after June 1, 1984, that the budget for the Department of Defense for fiscal year 1985 and the Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 give significant priority to programs directly intended to improve NATO's conventional capabilities, particularly its capability for deep interdiction;

(3) the Department of Defense has conducted a thorough and detailed analysis of the United States force and support structure in Europe which the Secretary of Defense submits to Congress on or after June 1, 1984, with his certification in writing that a number of United States military personnel in excess of 315,600 is required to meet the United States commitment to NATO; and

(4) the studies required by sections 1104 through 1107 have been conducted and the reports and recommendations resulting from such studies have been submitted to the Congress.

(c) A number of United States military personnel in excess of 315,600 or in excess of 320,000 may be assigned to permanent duty ashore in European member nations of NATO as of September 30, 1984, without the conditions specified in subsection (b) having been met if the President (1) determines and certifies to the Congress in writing that overriding national security interests require a number of such personnel to be assigned to permanent duty ashore in such nations in excess of 315,600 or 320,000, as the case may be, and (2) includes in the certification the total number of such personnel required and an explanation of the overriding national security interests that require such number of personnel.

(d) In computing the limitation specified in subsections (a) and (b), there may be excluded not more than 2,600 military personnel assigned to the Ground Launched Cruise Missile program and the Pershing II Missile program.

REPORT ON IMPROVEMENT OF CONVENTIONAL FORCES OF NATO

Sec. 1104. (a) At the same time the President submits the budget for fiscal year 1985 pursuant to section 1105 of title 31, United States Code, but not later than May 1, 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[2] a comprehensive report and plan for improving conventional defense capabilities of the North Atlantic Treaty Organization (NATO). The Secretary shall include in such report—

(1) his recommendations on how NATO's strategy and military program could and should be changed to improve substantially the chances of a successful conventional defense of Europe;

(2) a statement and explanation of what the aggregate NATO conventional defense requirements are;

(3) a current assessment and statement of the status of the Air-Land Battle concept within the Department of Defense and NATO;

(4) an explanation of how and to what extent the various doctrines of NATO military forces are coordinated, and how variations in doctrine can be rectified or exploited to NATO's advantage;

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(5) his judgment on the most effective means by which NATO military forces can be operationally integrated to implement the Air-Land Battle concept;

(6) the United States programs which are necessary to support improved NATO conventional capabilities, the changes which are needed, and what the fiscal year 1985 budget and Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 provide for with respect to NATO conventional capabilities;

(7) the United States conventional programs and weapons that are provided for in the fiscal year 1985 budget and Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 to enhance the disruption and destruction of Soviet follow-on echelons as well as fixed-site military targets;

(8) the new weapons or systems which are available for such purpose that are not in the current budget or Five-Year Defense Plan of the Department of Defense;

(9) a determination of what are the achievable NATO-wide improvements in conventional defense capability; and

(10) a separate addendum and assessment by the Supreme Allied Commander, Europe, on measures necessary to improve NATO conventional defense capabilities including a recommended plan for such measures.

(b) The President shall submit to the Congress not later than June 1, 1984, his recommendations and plan for improving NATO conventional defense capabilities.

REPORT ON THE NUCLEAR POSTURE OF NATO

Sec. 1105. (a) The Secretary of Defense shall conduct a study on the tactical nuclear posture of the North Atlantic Treaty Organization (NATO) and submit a report on the results of such study to the Committees on Armed Services of the Senate and the House of Representatives[3] not later than May 1, 1984. Such study shall include—

(1) a detailed assessment of the current tactical nuclear balance in Europe and that projected for 1990;

(2) an assessment of the current, respective operational doctrines for the use of tactical nuclear weapons in Europe of the Warsaw Pact and NATO;

(3) an explanation of how the threat of the use of such weapons relates to deterrence and to conventional defense;

(4) an identification of the number and types of nuclear warheads, if any, considered to be inessential to the defense structure of Western Europe, the quantity and type of such weapons that could be eliminated from Europe under appropriate circumstances without jeopardizing the security of NATO nations and an assessment of what such circumstances might be;

(5) an explanation of the steps that can be taken to develop a rational and coordinated nuclear posture by NATO in a man-

[3] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

ner that is consistent with proper emphasis on conventional defense forces; and

(6) an identification of any notable, relevant developments that have occurred since the submission to the Congress in April 1975 of the report entitled "The Theater Nuclear Force Posture in Europe", prepared by the Secretary of Defense pursuant to section 302 of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93–365), which might cause the findings and conclusions of that report to require revision and such revisions in such report as the Secretary considers appropriate.

(b) The President shall submit a written report to the Congress on or before June 1, 1984, containing his views on the Department of Defense study and report required under subsection (a) together with such recommendations with respect to such study and report as he considers appropriate.

REPORT ON COMBAT-TO-SUPPORT RATIO OF UNITED STATES FORCES IN EUROPE IN SUPPORT OF NATO

Sec. 1106. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives[3] not later than May 1, 1984, on the combat, combat support, combat service support, and noncombat components of the Armed Forces of the United States assigned to permanent duty in Europe in support of the North Atlantic Treaty Organization (NATO). The Secretary shall include in such report—

(1) an analysis of the historical (since 1974), current, and projected combat, combat support, combat service support, and noncombat components of the Armed Forces of the United States assigned to permanent duty in Europe in support of NATO and their relationship to each other;

(2) a review of the requirements for such combat, combat support, combat service support, and noncombat components; and

(3) his assessment of the current balance among units of United States combat components, combat support components, and combat service support components forward deployed in Europe and his recommendations for any changes needed to improve that balance in the future.

(b) For the purposes of the report required by subsection (a)—

(1) the combat component of the Army includes only the infantry, cavalry, artillery, armored, combat engineers, special forces, attack assault helicopter units, air defense, and missile combat units of battalion or smaller size;

(2) the combat component of the Navy includes only the combatant ships (aircraft carrier, battleship, cruiser, destroyer, frigate, submarine, and amphibious assault ships) and combat aircraft wings (fighter, attack, reconnaissance, and patrol); and

(3) the combat component of the Air Force includes only the tactical fighter, reconnaissance, tactical airlift, fighter interceptor, and bomber units of wing or smaller size.

REPORT ON UNITED STATES EXPENDITURES IN SUPPORT OF NATO

Sec. 1107. (a) The Secretary of Defense shall review and analyze the fiscal year 1983 expenditures of the Department of Defense in fulfilling the United States commitment to the North Atlantic Treaty Organization (NATO) and the expenditures projected for such purpose for each of the fiscal years 1984 through 1989.

(b)(1) The Secretary of Defense shall submit a detailed written report to the Congress not later than June 1, 1984, on the review and analysis required under subsection (a). The Secretary shall set out in such report, in current and constant fiscal year 1983 dollar figures, the expenditures made in fiscal year 1983 and expenditures projected to be made in fiscal years 1984 through 1989 by the United States in fulfilling its commitment to NATO in each of the following categories:

(A) Procurement.

(B) Operations and maintenance.

(C) Military construction.

(D) Military personnel.

(E) Research, development, test, and evaluation.

(2) The Secretary of Defense shall also include in such report a separate breakout of the fiscal year 1983 Department of Defense expenditures in each of the categories specified in paragraph (1) for the Armed Forces of the United States assigned to permanent duty ashore in the European member nations of NATO and the expenditures projected to be incurred by the Department of Defense in each of those categories in each of the fiscal years 1984 through 1989 for personnel of the Armed Forces of the United States planned to be assigned to permanent duty ashore in such nations during each of those fiscal years. The Secretary of Defense shall also include in such report similar separate breakouts for all classes of United States forces reflected in the data submitted to the Committee on Armed Services of the Senate and printed in part 1, pages 61–68, of that Committee's hearings on Department of Defense Authorization For Appropriations For Fiscal Year 1982.

(3) The Secretary of Defense shall also include in such report the estimated percentage growth in each of the five categories specified in paragraph (1) of subsection (b), after allowing for inflation, from one year to the next for the fiscal years 1983 through 1989. In the case of each category of expenditures for which the annual projected rate of expenditure growth after fiscal year 1983 exceeds 3 percent, after allowing for inflation over the previous fiscal year, the Secretary shall include his assessment of the impact on NATO of limiting the growth of expenditures in that category to 3 percent real growth.

TITLE XII—GENERAL PROVISIONS

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POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

Sec. 1235.[4] (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F–15 aircraft unless the President determines and certifies to Congress—

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on anti-satellite weapons consistent with the national security interests of the United States;

(2) that, pending agreement on such strict limitations, testing against objects in space of the F–15 launched miniature homing vehicle anti-satellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security.

(3) that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on anti-satellite weapons; and

(4) that such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

(b) During fiscal year 1985, funds appropriated for the purpose of testing the F–15 launched miniature homing vehicle anti-satellite warheads may not be used to conduct more than two successful tests of that warhead against objects in space.

(c) The limitations on the expenditure of funds provided by this section shall cease to apply 15 calendar days after the date of the receipt by Congress of the certification referred to in subsection (a).

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LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

Sec. 1237.[5] The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 770 of the Department of De-

[4] Sec. 205 of the DOD Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2492 at 2509) amended and restated sec. 1235. It formerly read as follows:

"ESTABLISHING CRITERIA GOVERNING THE TEST OF ANTISATELLITE WARHEADS

"SEC. 1235. Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or insert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—

"(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons; and

"(2) that, pending agreement on such a ban, testing of explosive or inert antisatellite warheads against objects in space by the United States is necessary to avert clear and irrevocable harm to the national security.".

[5] Although secs. 1237 and 1238 lifted these restrictions concerning certain provisions of the Arms Export Control Act as they applied during fiscal year 1983, similar restrictions were reenacted as secs. 743A and 762A of the Department of Defense Appropriation Act, 1984.

fense Appropriation Act, 1983 (as contained in Public Law 97–377; 96 Stat. 1862).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

Sec. 1238.[5] The Arms Export Control Act shall be administered as if section 747 of the Department of Defense Appropriation Act, 1983 (as contained in Public Law 97–377; 96 Stat. 1858) had not been enacted into law.

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w. Department of Defense Authorization Act, 1983

Partial text of Public Law 97–252 [S. 2248], 96 Stat. 718, approved September 8, 1982

AN ACT To authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1983".

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TITLE XI—GENERAL PROVISIONS

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NATO DEFENSE INDUSTRIAL COOPERATION

Sec. 1122.[1] (a) The Congress finds that—

(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty Organization (hereinafter in this section referred to as "NATO") allies in protecting liberty and maintaining world peace;

(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purposes;

(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide inducement for the Soviet Union to enter into a meaningful arms

[1] 22 U.S.C. 1928 note.

reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3).

STUDY OF IMPROVED CONTROL OF USE OF NUCLEAR WEAPONS

Sec. 1123. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises. Such study and evaluation shall include consideration of the following:

(1) Establishment of a multi-national military crisis control center for monitoring and containing the use or potential use of nuclear weapons by third parties or terrorist groups.

(2) Development of a forum through which the United States and the Soviet Union could exchange information pertaining to nuclear weapons that could potentially be used by third parties or terrorist groups.

(3) Development of measures for building confidence between the United States and the Soviet Union for improved crisis stability and arms control, including—

(A) an improved United States/Soviet Union communications hotline for crisis control;

(B) improved procedures for verification of any arms control agreements;

(C) measures to reduce the vulnerability of command, control, and communications of both nations; and

(D) measures to lengthen the warning time each nation would have of potential nuclear attack.

(b) The Secretary of Defense shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representa-

tives by February 1, 1983.[2] Such report should be available in both a classified, if necessary, and unclassified format.

(c) The President shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by March 1, 1983,[2] on the merits to the arms control process of the initiatives developed under the study and evaluation required by subsection (a) and on the status of any such initiative as it may relate to any arms control negotiation with the Soviet Union.

NEGOTIATIONS FOR BANNING OF CHEMICAL WEAPONS

Sec. 1124. It is the sense of Congress that the President should—

(1) continue to promote actively negotiations among the member countries of the Ad Hoc Working Group on Chemical Warfare of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland for the purpose of drafting a treaty for the complete, effective, and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for their destruction;

(2) press vigorously in every appropriate forum for a full explanation of outstanding allegations concerning Soviet and Soviet-proxy use of chemical weapons in violation of international law; and

(3) communicate to the Government of the Union of Soviet Socialist Republics the earnest desire of the Government of the United States for a comprehensive, verifiable ban on chemical weaponry and the willingness of the Government of the United States to participate in negotiations toward this end as soon as the Government of the United States can be satisfied that the Soviet Union is not in violation of existing international accords applying to the prohibition of first use of chemical weapons and the production and transfer of biological weapons and that the Soviet Union is prepared to agree to provisions needed to ensure the verifiability of an accord banning chemical warfare.

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[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

x. Department of Defense Appropriation Authorization Act, 1979

Partial text of Public Law 95–485 [S. 3486], 92 Stat. 1611 at 1625, approved October 20, 1978

AN ACT To authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

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TITLE VIII—GENERAL PROVISIONS

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REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

Sec. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1977.

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y. Department of Defense Appropriation Authorization Act, 1975

Partial text of Public Law 93–365 [H.R. 14592], 88 Stat. 399, approved August 5, 1974; as amended by Public Law 94–106 [Department of Defense Appropriation Authorization Act, 1976; H.R. 6674], 89 Stat. 531, approved October 7, 1975; Public Law 97–252 [Department of Defense Authorization Act, 1983; S. 2248], 96 Stat. 718 at 754, approved September 8, 1982; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

AN ACT To authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

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

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TITLE III—ACTIVE FORCES

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Sec. 302. (a) The United States military forces in Europe can reduce headquarters and noncombat military personnel relative to the number of combat personnel located in Europe. Therefore, except in the event of imminent hostilities in Europe, the noncombat component of the total United States military strength in Europe authorized as of June 30, 1974, shall be reduced by 18,000. Such reduction shall be completed not later than June 30, 1976, and not less than 6,000 of such reduction shall be completed on or before June 30, 1975; however, the Secretary of Defense is authorized to increase the combat component strength of United States forces in Europe by the amount of any such reduction made in noncombat personnel. The Secretary of Defense shall report semiannually to the Congress on all actions taken to improve the combat proportion of United States forces in Europe. The first report shall be submitted not later than March 31, 1975.

(b) For purposes of this section, the combat component of the Army includes only the infantry, cavalry, artillery, armored, combat engineers, special forces, attack assault helicopter units, air defense, and missile combat units of battalion or smaller size; the combat component of the Navy includes only the combat ships (aircraft carrier, cruiser, destroyer, submarine, escort and amphibious assault ships) and combat aircraft wings (fighter, attack, reconnaissance, and patrol); the combat component of the Air Force includes only the tactical fighter reconnaissance, tactical airlift, fighter interceptor and bomber units of wing or smaller size.

(c)[1] * * * [Repealed—1982]

(d) The total number of United States tactical nuclear warheads located in Europe on the date of enactment of this Act shall not be increased until after June 30, 1975, except in the event of imminent hostilities in Europe. The Secretary of Defense shall study the overall concept for use of tactical nuclear weapons in Europe; how the use of such weapons relates to deterrence and to a strong conventional defense; reductions in the number and type of nuclear warheads which are not essential for the defense structure for Western Europe; and the steps that can be taken to develop a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with proper emphasis on conventional defense forces. The Secretary of Defense shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives[2] on the results of the above study on or before April 1, 1975.

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TITLE VII—GENERAL PROVISIONS[3]

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Sec. 704. Section 204 of Public Law 93–166 is amended by adding at the end thereof a new subsection as follows:

"(e) Notwithstanding any other provision of law, the conduct by the Department of the Navy of training operations at the Culebra complex involving the firing of any shells, missiles, or other projectiles from ships or the dropping of any bombs, strafing, firing of rockets or missiles, or the launching of any other projectiles from aircraft at Culebra or at any keys within three nautical miles thereof is prohibited during any period of time that the negotiations required by subsection (b) have been ended on the initiative of the United States Government prior to the conclusion of a satisfactory agreement. In the conduct of the negotiations required by subsection (b) the Secretary of the Navy shall not agree to any relocation of training operations from the Island of Culebra which would be rendered ineffective by any international agreement on the law of the sea which may become international law within three years after the date of the enactment of this Act."

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Sec. 707. (a) No funds authorized to be appropriated by this or any other Act may be obligated under a contract entered into by the Department of Defense after the date of the enactment of this Act for procurement of goods which are other than American goods unless, under regulations of the Secretary of Defense and subject

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[1] Subsec. (c), which had directed the Secretary of Defense to assess the costs and possible loss of nonnuclear combat effectiveness of NATO military forces due to failure to follow NATO standardization guidelines, was repealed by Public Law 97–295 (96 Stat. 1314). Public Law 97–295 reconstituted most of the text of subsec. (c) in 10 U.S.C. 2457.

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[3] Sec. 702 amended Public Law 84–1028 (Restrictions on Disposal of Naval Vessels; 70A Stat. 1).

to the determinations and exceptions contained in title III of the Act of March 3, 1933, as amended (47 Stat. 1520; 41 U.S.C. 10a, 10b), popularly known as the Buy American Act, there is adequate consideration given to—

(1) the bids or proposals of firms located in labor surplus areas in the United States as designated by the Department of Labor which have offered to furnish American goods;

(2) the bids or proposals of small business firms in the United States which have offered to furnish American goods;

(3) the bids or proposals of all other firms in the United States which have offered to furnish American goods;

(4) the United States balance of payments;

(5) the cost of shipping goods which are other than American goods; and

(6) any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

(b) For purposes of this section, the term "goods which are other than American goods" means (1) an end product which has not been mined, produced, or manufactured in the United States, or (2) an end product manufactured in the United States but the cost of the components thereof which are not mined, produced, or manufactured in the United States exceeds the cost of components mined, produced, or manufactured in the United States.

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Sec. 709.[4] * * * [Repealed—1993]

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[4] Formerly at 50 U.S.C. 2403–1. Sec. 709, relating to technology transfer to a controlled country, was repealed by sec. 202(b) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322).

z. Armed Forces Appropriation Authorization, 1971

Partial text of Public Law 91–441 [H.R. 17123], 84 Stat. 909, approved October 7, 1970, as amended by Public Law 95–79 [Department of Defense Appropriation Authorization Act, 1978; H.R. 5970], 91 Stat. 323 at 334, approved July 30, 1977

AN ACT To authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

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

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TITLE V—GENERAL PROVISIONS

Sec. 501. The Congress views with grave concern the deepening involvement of the Soviet Union in the Middle East and the clear and present danger to world peace resulting from such involvement which cannot be ignored by the United States. In order to restore and maintain the military balance in the Middle East, by furnishing to Israel for means of providing for its own security, the President is authorized to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East. Any such sale, credit sale, or guaranty shall be made on terms and conditions not less favorable than those extended to other countries which receive the same or similar types of aircraft and equipment. The authority contained in the second sentence of this section shall expire September 30, 1972.[1] In any case in which aircraft or other equipment is transferred under authority of this section and such aircraft or equipment is taken from the inventory of the Armed Forces of the United States or is scheduled to be included in such inventory, the Secretary of Defense shall, as soon as practicable and as authorized

[1] Sec. 807 of Public Law 95–79 (Department of Defense Appropriation Authorization Act, 1978; 91 Stat. 323 at 334) provided the following extension:

"Notwithstanding any other provision of law, the authority provided in section 501 of Public Law 91–441 (84 Stat. 909) is hereby extended until October 1, 1979; but no transfer of aircraft or other equipment may be made under the authority of such section 501 unless funds have been previously appropriated for such transfer.".

by law, restock the inventory of the Armed Forces of the United States with equivalent quantities of aircraft and other equipment so transferred.[2]

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[2] The last sentence in sec. 501 was added by sec. 807(b) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79; 91 Stat. 334).

aa. Authorization for an Improved U.S./Soviet Direct Communication Link

Public Law 99–85 [S.J. Res. 108], 99 Stat. 286, approved August 8, 1985; amended by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

JOINT RESOLUTION[1] Authorizing the Secretary of Defense to provide to the Soviet Union, on a reimbursable basis, equipment and services necessary for an improved United States/Soviet Direct Communication Link for crisis control.

Whereas section 1123(a) of the Department of Defense Authorization Act, 1983 (Public Law 97–252), directed the Secretary of Defense "to conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises;

Whereas the Congress directed that the same study should address several specific measures for building confidence between the United States and the Soviet Union, including an improved Direct Communications Link for crisis control;

Whereas the Secretary of Defense responded to that congressional mandate with a report entitled "Report to the Congress on Direct Communications Links and Other Measures to Enhance Stability" in which the Secretary proposed several improvements to existing United States-Soviet mechanisms for the prevention and resolution of crises, including the addition of a facsimile capability to the United States/Soviet Union Direct Communications Link;

Whereas the President of the United States presented the recommendations of the Secretary of Defense to the Government of the Soviet Union in May 1983;

Whereas the United States and the Soviet Union commenced negotiations on bilateral communications improvements in August 1983, and on July 17, 1984, concluded the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade in which the two governments agreed to add a facsimile capability to the Direct Communications Link;

Whereas the Congress endorses that agreement and remains committed to all possible measures to facilitate the resolution of international crises and to limit the danger of conflict;

Whereas the Secretary of Defense is responsible for the installation, maintenance, and operation of the Direct Communications Link equipment for the United States; and

Whereas the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade provides that the United States Government will provide to the Union of Soviet So-

[1] 10 U.S.C. 113 note.

cialist Republics, at cost, the equipment and services necessary for the Soviet Union part of the improved Direct Communications Link: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may provide to Russia,[2] as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the Russian part[3] of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services to Russia[2] at the cost thereof to the United States.

SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

(b) Funds received from Russia[4] as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.

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[2] Sec. 404(a)(1)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2325) struck out "to the Soviet Union" and inserted in lieu thereof "to Russia".

[3] Sec. 404(a)(1)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2325) struck out "Soviet Union part" and inserted in lieu thereof "Russian part".

[4] Sec. 404(a)(2) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2325) struck out "the Soviet Union" and inserted in lieu thereof "Russia". Sec. 404(b) of that Act, however, provided that "The amendment made by subsection (a)(2) does not affect the applicability of section 2(b) of that joint resolution to funds received from the Soviet Union.".

4. Laws Relating to Loan or Sale of Vessels to Foreign Countries

a. 10 U.S.C. 7307—Disposals to Foreign Nations

Chapter 633.—NAVAL VESSELS

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§ Sec. 7307.[1] Disposals to foreign nations

(a) LARGER OR NEWER VESSELS.—A naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is approved by law enacted after August 5, 1974. A lease or loan of such a vessel under such a law may be made only in accordance

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[1] 10 U.S.C. 7307 was originally enacted in Public Law 84–1028 (70A Stat. 1; August 10, 1956), and has been amended by Public Law 93–365 (88 Stat. 399); Public Law 94–457 (90 Stat. 1938); Public Law 96–513 (94 Stat. 2835); Public Law 99–83 (99 Stat. 190); and by Public Law 101–510 (104 Stat. 1704).

Sec. 824(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1708) amended and restated 10 U.S.C. 7307.

Sec. 1025 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1877) provides the following:

"SEC. 1025. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

"(a) AUTHORITY.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

"(1) To the Government of Brazil, the HUNLEY class submarine tender HOLLAND (AS 32).

"(2) To the Government of Chile, the KAISER class oiler ISHERWOOD (T–AO 191).

"(3) To the Government of Egypt:

"(A) The following frigates of the KNOX class:

"(i) The PAUL (FF 1080).

"(ii) The MILLER (FF 1091).

"(iii) The JESSE L. BROWN (FFT 1089).

"(iv) The MOINESTER (FFT 1097).

"(B) The following frigates of the OLIVER HAZARD PERRY class:

"(i) The FAHRION (FFG 22).

"(ii) The LEWIS B. PULLER (FFG 23).

"(4) To the Government of Israel, the NEWPORT class tank landing ship PEORIA (LST 1183).

"(5) To the Government of Malaysia, the NEWPORT class tank landing ship BARBOUR COUNTY (LST 1195).

"(6) To the Government of Mexico, the KNOX class frigate ROARK (FF 1053).

"(7) To the Taipei Economic and Cultural Representative Office in the United States (the Taiwan instrumentality that is designated pursuant to section 10(a) of the Taiwan Relations Act), the following frigates of the KNOX class:

"(A) The WHIPPLE (FF 1062).

"(B) The DOWNES (FF 1070).

"(8) To the Government of Thailand, the NEWPORT class tank landing ship SCHENECTADY (LST 1185).

"(b) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient.

"(c) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

"(d) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.".

with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.).

(b) OTHER VESSELS.—(1) A naval vessel not subject to subsection (a) may be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) in accordance with applicable provisions of law, but only after—

(A) the Secretary of the Navy notifies the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives[2] in writing of the proposed disposition; and

(B) 30 days of continuous session of Congress have expired following the date on which such notice is sent to those committees.

(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

[2] Sec. 1502(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 502) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

a. Netherlands—P.L. 82–510 [S. 3337], 66 Stat. 587, approved July 11, 1952.

b. Italy and France; Far Eastern and European Nations—P.L. 83–188 [S. 2277], 67 Stat. 363, approved Aug. 5, 1953, as amended by P.L. 84–948 [H.R. 11613], 70 Stat. 967, approved Aug. 3, 1956.

c. Turkey—P.L. 83–214 [S. 2539], 67 Stat. 471, approved Aug. 7, 1953.

d. Brazil—P.L. 84–484 [H.R. 8100], 70 Stat. 105, approved Apr. 6, 1956.

e. Netherlands and Venezuela—P.L. 85–220 [H.R. 6952], 71 Stat. 495, approved Aug. 29, 1957.

f. NATO and the European Area; the Latin American and Far Eastern Areas—P.L. 85–532 [S. 3506], 72 Stat. 376; 50 U.S.C. App. 1878e–1878i, approved July 18, 1958.

g. Italy, Turkey, and the Republic of China—P.L. 86–57 [H.R. 3366], 73 Stat. 90; 50 U.S.C. App. 1878j–1878*l*, approved June 23, 1959.

h. Republic of China—P.L. 86–482 [H.R. 9465], 74 Stat. 153; 50 U.S.C. App. 1878m–1878p, approved June 1, 1960.

i. Portugal, Spain, NATO, Southern Asia, and the Far Eastern Area—P.L. 87–387 [H.R. 7726], 75 Stat. 815; 50 U.S.C. App. 1878q–1878x, approved Oct. 4, 1961.

j. Argentina, Brazil, China, Germany, Greece, Italy, Japan, The Netherlands, Peru, Spain, Thailand, and Turkey—P.L. 88–437 [H.R. 11035], 78 Stat. 444; 50 U.S.C. App. 1878y–1878bb, approved Aug. 14, 1964.

k. Italy, Spain, Argentina, Brazil, Turkey, and the Philippines—P.L. 89–324 [H.R. 7812], 79 Stat. 1214; 50 U.S.C. App. 1878cc–1878mm, approved Nov. 5, 1965.

l. Republic of China—P.L. 89–398 [H.R. 7813], 80 Stat. 121; 50 U.S.C. App. 1878nn–1878ss, approved Apr. 16, 1966.

m. Argentina, Brazil, Chile, Colombia, Federal Republic of Germany, Greece, Republic of Korea, Portugal, Spain, and Peru—P.L. 90–224 [H.R. 6167], 81 Stat. 729; 50 U.S.C. App. 1878tt–1878xx approved Dec. 26, 1967.

n. Greece, Pakistan, Republic of Vietnam, and Turkey—P.L. 91–682 [H.R. 15728], 84 Stat. 2066; 50 U.S.C. App. 1878yy–1878zz–3, approved Jan. 12, 1971.

o. Spain, Turkey, Greece, Republic of Korea and Italy—P.L. 92–270 [H.R. 9526], 86 Stat. 118; 50 U.S.C. App. 1878zz–4—1878zz–8, approved Apr. 6, 1972.

p. Argentina, Republic of China, Colombia, Germany, Greece, Iran, Republic of Korea, Pakistan, the Philippines, Spain, and Venezuela—P.L. 94–457 [S. 3734], 90 Stat. 1938, approved Oct. 5, 1976.

q. Brazil, Colombia, Ecuador, Greece, Indonesia, Republic of Korea, Mexico, Peru, Philippines, and Spain—P.L. 96–150 [H.R. 5163], 93 Stat. 1091, approved Dec. 20, 1979.

r. Colombia, Dominican Republic, Mexico, Pakistan, Turkey—P.L. 97–342 [H.R. 7115], 96 Stat. 1641, approved Oct. 15, 1982.

s. Taiwan—P.L. 99–661 [S. 2638], 100 Stat. 4005, approved Nov. 14, 1986.

t. Philippines—P.L. 101–44 [H.R. 2344], 103 Stat. 96, approved June 30, 1989.

u. Brazil—P.L. 101–172 [H.R. 3544], 103 Stat. 1291, approved Nov. 22, 1989.

v. Brazil—P.L. 101–568 [S. 3215], 104 Stat. 2804, approved Nov. 15, 1990.

w. Greece—P.L. 102–91 [H.R. 2901], 105 Stat. 472, approved Aug. 14, 1991.

x. Greece, Taiwan—P.L. 102–322 [H.R. 5412], 106 Stat. 443, approved July 19, 1992.

y. Argentina, Australia, Chile, Greece, Taiwan, Turkey—P.L. 103–54 [H.R. 2561], 107 Stat. 274, approved July 28, 1993.

z. Brazil, Egypt, Morocco, Oman, Spain, Taiwan, Thailand, Turkey, Venezuela—P.L. 103–174 [H.R. 3741], 107 Stat. 2000, approved Dec. 2, 1993.

aa. Australia, Brazil, Morocco, Spain—P.L. 103–295 [H.R. 4426], 108 Stat. 1462, approved Aug. 12, 1994.

bb. Argentina, Chile, Malaysia, Spain, Taiwan, Venezuela—P.L. 103–378 [H.R. 5155], 108 Stat. 3508, approved Oct. 19, 1994.

b. Transfer of Naval Vessels to Egypt, Mexico, New Zealand, Portugal, Taiwan, and Thailand

Title II of Public Law 104–164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

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

* * * * * * *

TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

SEC. 201. AUTHORITY TO TRANSFER NAVAL VESSELS.

(a) EGYPT.—The Secretary of the Navy is authorized to transfer to the Government of Egypt the "OLIVER HAZARD PERRY CLASS" frigate GALLERY. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(b) MEXICO.—The Secretary of the Navy is authorized to transfer to the Government of Mexico the "KNOX" class frigates STEIN (FF 1065) and MARVIN SHIELDS (FF 1066). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(c) NEW ZEALAND.—The Secretary of the Navy is authorized to transfer to the Government of New Zealand the "STALWART" class ocean surveillance ship TENACIOUS. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(d) PORTUGAL.—The Secretary of the Navy is authorized to transfer to the Government of Portugal the "STALWART" class ocean surveillance ship AUDACIOUS. Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers of excess defense articles).

(e) TAIWAN.—The Secretary of the Navy is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the following:

(1) The "KNOX" class frigates AYLWIN (FF 1081), PHARRIS (FF 1094), and VALDEZ (FF 1096). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(2) The "NEWPORT" class tank landing ship NEWPORT (LST 1179). Such transfer shall be on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796).

(f) THAILAND.—The Secretary of the Navy is authorized to transfer to the Government of Thailand the "KNOX" class frigate OUELLET (FF 1077). Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

SEC. 202. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this title shall be charged to the recipient.

SEC. 203. EXPIRATION OF AUTHORITY.

The authority granted by section 201 shall expire at the end of the 2–year period beginning on the date of the enactment of this Act.

SEC. 204. REPAIR AND REFURBISHMENT OF VESSELS IN UNITED STATES SHIPYARDS.

The Secretary of the Navy shall require, to the maximum extent possible, as a condition of a transfer of a vessel under this title, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

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1. Agricultural Trade Development and Assistance

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a. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480)[1, 2]

Public Law 83–480 [S. 2475], 68 Stat. 454, 7 U.S.C. 1691–1738r, approved July 10, 1954; as amended by Public Law 84–25 [S. 752], 69 Stat. 44, approved April 25, 1955; Public Law 84–387 [S. 2253], 69 Stat. 721, approved August 12, 1955; Public Law 84–540 [H.R. 10875], 70 Stat. 188, approved May 28, 1956; Public Law 84–726 [H.R. 11356], 70 Stat. 555, approved July 18, 1956; Public Law 84–962 [S. 3903], 70 Stat. 988, approved August 3, 1956; Public Law 85–128 [S. 1314], 71 Stat. 345, approved August 13, 1957; Public Law 85–141 [S. 2130], 71 Stat. 355, approved August 14, 1957; Public Law 85–477 [H.R. 12181], 72 Stat. 261, approved June 30, 1958; Public Law 85–931 [S. 3420], 72 Stat. 1790, approved September 6, 1958; Public Law 86–108 [H.R. 7500], 73 Stat. 246, approved July 24, 1959; Public Law 86–341 [H.R. 8609], 733 Stat. 606, approved September 21, 1959; Public Law 86–472] H.R. 11510], 74 Stat. 134, approved May 14, 1960; Public Law 87–28 [S. 1027], 75 Stat. 64, approved May 4, 1961; Public Law 87–128 [S. 1643], 75 Stat. 294, approved August 8, 1961; Public Law 87–195 [S. 1983], 75 Stat. 424, approved September 4, 1961; Public Law 87–703 [H.R. 12391], 76 Stat. 605, approved September 27, 1962; Public Law 87–839 [S. 3389], 76 Stat. 1074, approved October 18, 1962; Public Law 88–205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963; Public Law 88–638 [S. 2687], 78 Stat. 1035, approved October 8, 1964; Public Law 89–106 [H.R. 5508], 79 Stat. 431, approved August 4, 1965; Public Law 89–171 [H.R. 7750], 79 Stat. 653, approved September 6, 1965; Public Law 89–808 [H.R. 14929], 80 Stat. 1526, approved November 11, 1966; Public Law 90–436 [S. 2986], 82 Stat. 450, approved July 29, 1968; Public Law 91–524 [H.R. 18546], 84 Stat. 1358, approved November 30, 1970; Public Law 92–42 [H.R. 1161], 85 Stat. 99, approved July 1, 1971; Public Law 93–86 [S. 1888], 87 Stat. 237, approved August 10, 1973; Public Law 94–161 [H.R. 9005], 89 Stat. 849, approved December 20, 1975; Public Law 95–88 [H.R. 6714], 91 Stat. 533, approved August 3, 1977; Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977; Public Law 95–424 [International Development and Food Assistance Act of 1978, H.R. 12222], 92 Stat. 937, approved October 6, 1978; Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359, approved August 14, 1979; Public Law 96–72 [Export Administration Act of 1979, S. 737], 93 Stat. 503 at 536, approved September 29, 1979; Public Law 96–470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2246, approved October 19, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3151, approved December 16, 1980; Public Law 97–98 [S. 884], 95 Stat. 1213 at 1274, approved December 22, 1981; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1537, approved December 29, 1981; Public Law 98–473 [Continuing Appropriations Act, 1985; H.J.

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[1] The Agricultural Trade Development and Assistance Act of 1954, as amended, was substantially amended and restated by sec. 1512 of subtitle A (the "Mickey Leland Food for Peace Act") of title XV (the "Agricultural Development and Trade Act of 1990") of Public Law 101–624 (the "Food, Agriculture, Conservation, and Trade Act of 1990").

Previously, this Act has been restated and amended by sec. 2 of the Food for Peace Act of 1966.

[NOTE.—In signing the Food for Peace bill on November 11, 1966, the President referred to it as the "Food for Freedom program".]

The Food for Peace Act of 1966 was effective as of January 1, 1967, except that sec. 4 took effect November 11, 1966.

[2] Prohibitions against furnishing assistance under this Act are contained in subsecs. (i), (j), (n), (s), and (t) of sec. 620 of the Foreign Assistance Act of 1961, as amended. For text, see *Legislation on Foreign Relations Through 1997*, vol. I–A. A further prohibition was contained in the Agricultural Environmental and Consumer Protection Appropriation Act, 1975 (Public Law 93–563; 88 Stat. 1830).

Res. 648], 98 Stat. 1837 at 2194, approved October 12, 1984; Public Law 98–623 [H.R. 6342], 98 Stat. 3394, approved November 8, 1984, Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99–198 [Food Security Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 100–202 [Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848] 102 Stat. 1107, approved August 23, 1988; Public Law 100–576 [Bangladesh Disaster Assistance Act of 1988, H.R. 5389], 102 Stat. 2897, approved October 31, 1988; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–532 [Enterprise for the Americas Initiative Act of 1992; H.R. 4059], 106 Stat. 3509, approved October 27, 1992; Public Law 102–549 [Jobs Through Exports Act of 1992; H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To increase the consumption of United States agricultural commodities in foreign countries, to improve the foreign relations of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954."

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954".

SEC. 2.[3] UNITED STATES POLICY.

It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of agricultural commodities and local currencies accruing under this Act to—

(1) combat world hunger and malnutrition and their causes;

(2) promote broad-based, equitable, and sustainable development, including agricultural development;

(3) expand international trade;

(4) develop and expand export markets for United States agricultural commodities; and

(5) foster and encourage the development of private enterprise and democratic participation in developing countries.

SEC. 3.[4] FOOD AID TO DEVELOPING COUNTRIES.

(a) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the

[3] 7 U.S.C. 1691.

[4] 7 U.S.C. 1691a. Sec. 201(a) of Public Law 104–127 (110 Stat. 951) amended and restated sec. 3. It formerly read as follows:

"SEC. 3. GLOBAL FOOD AID NEEDS.

"In view of the principal findings of the National Research Council of the National Academy of Sciences that doubling food aid above 1990 levels of about 10,000,000 metric tons per year would be necessary to meet projected global food needs throughout the decade of the nineties, it is the sense of Congress that the President should—

Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

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

(1) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

(2) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.

TITLE I—TRADE AND DEVELOPMENT ASSISTANCE

SEC. 101.[5] TRADE AND DEVELOPMENT ASSISTANCE.

(a) IN GENERAL.—The President shall establish a program under this title to provide for the sale of agricultural commodities to developing countries and private entities[6] for dollars on credit terms, or for local currencies (including for local currencies on credit terms) for use under this title. Such program shall be implemented by the Secretary.

(b) GENERAL AUTHORITY.—To carry out the policies and accomplish the objectives described in section 2, the Secretary may negotiate and execute agreements with developing countries and private entities[6] to finance the sale and exportation of agricultural commodities to such countries and entities.[7]

SEC. 102.[8] AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

(a) PRIORITY.—In selecting agreements to be entered into under this title, the Secretary shall give priority to agreements providing for the export of agricultural commodities to developing countries that—

"(1) increase the contributions of food aid by the United States, and encourage other donor countries to increase their contributions toward meeting new food aid requirements; and

"(2) encourage other advanced nations to make increased food aid contributions to combat world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs.".

[5] 7 U.S.C. 1701.

[6] Sec. 202 of Public Law 104–127 (110 Stat. 951) struck out "developing countries" and inserted in lieu thereof "developing countries and private entities" throughout sec. 101.

[7] Sec. 202 of Public Law 104–127 (110 Stat. 951) inserted "and entities" at the end of the sentence.

[8] 7 U.S.C. 1702. Sec. 203 of Public Law 104–127 (110 Stat. 951) amended and restated sec. 102. It formerly read as follows:

"SEC. 102. ELIGIBLE COUNTRIES.

"(a) IN GENERAL.—A country shall be considered to be a developing country and eligible for assistance under this title if such country has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels, as determined by the Secretary.

"(b) PRIORITY.—In determining whether and to what extent agricultural commodities will be made available to developing countries under this title, the Secretary shall give priority to developing countries that—

"(1) demonstrate the greatest need for food;

"(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

"(3) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities.".

(1) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities;

(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

(3) demonstrate the greatest need for food.

(b) PRIVATE ENTITIES.—An agreement entered into under this title with a private entity shall require such security, or such other provisions as the Secretary determines necessary, to provide reasonable and adequate assurance of repayment of the financing extended to the private entity.

(c) AGRICULTURAL MARKET DEVELOPMENT PLAN.—

(1) DEFINITION OF AGRICULTURAL TRADE ORGANIZATION.—In this subsection, the term "agricultural trade organization" means a United States agricultural trade organization that promotes the export and sale of a United States agricultural commodity and that does not stand to profit directly from the specific sale of the commodity.

(2) PLAN.—The Secretary shall consider a developing country for which an agricultural market development plan has been approved under this subsection to have the demonstrated potential to become a commercial market for competitively priced United States agricultural commodities for the purpose of granting a priority under subsection (a).

(3) REQUIREMENTS.—

(A) IN GENERAL.—To be approved by the Secretary, an agricultural market development plan shall—

(i) be submitted by a developing country or private entity, in conjunction with an agricultural trade organization;

(ii) describe a project or program for the development and expansion of a commercial market for a United States agricultural commodity in a developing country, and the economic development of the country, using funds derived from the sale of agricultural commodities received under an agreement described in section 101;

(iii) provide for any matching funds that are required by the Secretary for the project or program;

(iv) provide for a results-oriented means of measuring the success of the project or program; and

(v) provide for graduation to the use of non-Federal funds to carry out the project or program, consistent with requirements established by the Secretary.

(B) AGRICULTURAL TRADE ORGANIZATION.—The project or program shall be designed and carried out by the agricultural trade organization.

(C) ADDITIONAL REQUIREMENTS.—An agricultural market development plan shall contain such additional requirements as are determined necessary by the Secretary.

(4) ADMINISTRATIVE COSTS.—

(A) IN GENERAL.—The Secretary may make funds made available to carry out this title available for the reimbursement of administrative expenses incurred by agricultural trade organizations in developing, implementing, and administering agricultural market development plans, subject to such requirements and in such amounts as the Secretary considers appropriate.

(B) DURATION.—The funds may be made available to agricultural trade organizations for the duration of the applicable agricultural market development plan.

(C) TERMINATION.—The Secretary may terminate assistance made available under this subsection if the agricultural trade organization is not carrying out the approved agricultural market development plan.

SEC. 103.[9] TERMS AND CONDITIONS OF SALES.

(a) PAYMENT.—

(1) DOLLARS.—Except as provided in paragraph (2), agreements under this title shall require that payment for agricultural commodities be made in dollars.

(2) LOCAL CURRENCIES.—

(A) IN GENERAL.—The Secretary may permit[10] payment under an agreement under this title in the local currency of the appropriate country[11] in order to use the proceeds from such payments to carry out activities under section 104.

(B) RATES OF EXCHANGE.—Payments in local currency shall be at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the country and that are no less favorable than the highest exchange rate obtainable by any other country.

(b) INTEREST.—Such agreements shall provide that interest accrue on the payment deferred under such agreement at a concessional rate as determined appropriate by the Secretary.

(c) DURATION.—Payments required under such agreements may be made in reasonable annual amounts over the period (not[12] more than 30 years from the date of the last delivery of commodities in each year under such agreement) specified in the agreement.

(d) DEFERRAL OF PAYMENTS.—The Secretary may defer the date on which the developing country or private entity[13] is required to begin making payment, under such agreements, for a period of not in excess of 5[14] years after the date of the last delivery of commodities in each year under the agreement, and interest shall be computed from the date of such last delivery.

(e) DELIVERY OF COMMODITIES.—Delivery of the commodities shall be made in accordance with the terms of the agreement.

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[9] 7 U.S.C. 1703.

[10] Sec. 204(1)(A) of Public Law 104–127 (110 Stat. 953) struck out "a recipient country to make" after "may permit".

[11] Sec. 204(1)(B) of Public Law 104–127 (110 Stat. 953) struck out "such country" and inserted in lieu thereof "the appropriate country".

[12] Sec. 204(2) of Public Law 104–127 (110 Stat. 953) struck out "less than 10 nor" after "(not".

[13] Sec. 204(3)(A) of Public Law 104–127 (110 Stat. 953) struck out "recipient country" and inserted in lieu thereof "developing country or private entity".

[14] Sec. 204(3)(B) of Public Law 104–127 (110 Stat. 953) struck out "7" and inserted in lieu thereof "5".

NOTE.—See 31 USC 1306, use of foreign currencies, in *Legislation on Foreign Relations Through 1997*, vol. I–A.

Section 507 of the Public Works for Water, Pollution Control, and Power Development and Atomic Energy Commission Appropriation Act, 1970 (Public Law 91–144; 83 Stat. 338), provided as follows:

"Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.".

SEC. 104.[15] USE OF LOCAL CURRENCY PAYMENT.

(a) IN GENERAL.—Agreements under this title may provide that the Secretary shall use payments made in local currencies by the developing country or private entity[16] in accordance with this section.

(b) SPECIAL ACCOUNT.—Foreign currencies received by the Secretary under this title shall be deposited in a separate account, that may be interest-bearing, to the credit of the United States and such currencies and interest thereon shall be used as provided for in this section.

(c) ACTIVITIES.—The proceeds from the payments referred to in subsection (a) may be used in the appropriate developing country[17] for the following:

(1) TRADE DEVELOPMENT.—To carry out programs to help develop markets for United States agricultural commodities on a mutually beneficial basis in the appropriate developing country.[17]

(2) AGRICULTURAL DEVELOPMENT.—To support—

(A) increased agricultural production, including availability of agricultural inputs, with emphasis on small farms, processing of agricultural commodities, forestry management, and land and water management;

(B) credit policies for private-sector agriculture development;

(C) establishment and expansion of institutions for basic and applied agricultural research and the use of such research through development of extension services; and

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[15] 7 U.S.C. 1704.

[16] Sec. 205(1) of Public Law 104–127 (110 Stat. 953) struck out "recipient country" and inserted in lieu thereof "developing country or private entity".

[17] Sec. 205(2) of Public Law 104–127 (110 Stat. 953) struck out "recipient country" throughout subsec. (c) and inserted in lieu thereof "appropriate developing country".

(D) programs to control rodents, insects, weeds, and other animal or plant pests.

(3) AGRICULTURAL BUSINESS DEVELOPMENT LOANS.—To make loans to United States business entities (including cooperatives) and branches, subsidiaries, or affiliates of such entities for agricultural business development and agricultural trade expansion in such appropriate developing countries.[18]

(4) AGRICULTURAL FACILITIES LOANS.—To make loans to domestic or foreign entities (including cooperatives) for the establishment of facilities for aiding in the utilization or distribution of, or otherwise increasing the consumption of and markets for, United States agricultural products.

(5) TRADE PROMOTION.—To promote agricultural trade development, under procedures established by the Secretary, by making loans or through other activities (including trade fairs) that the Secretary determines to be appropriate.

(6) PRIVATE SECTOR AGRICULTURAL TRADE DEVELOPMENT.—To conduct private sector agricultural trade development activities in the appropriate developing country,[17] as determined appropriate by the Secretary.

(7) RESEARCH.—To conduct research in agriculture, forestry, and aquaculture, including collaborative research which is mutually beneficial to the United States and the appropriate developing country.[17]

(8) UNITED STATES OBLIGATIONS.—To make payments of United States obligations (including obligations entered into pursuant to other laws).

(d) FISCAL REQUIREMENTS REGARDING USE OF LOCAL CURRENCIES.—

(1) EXEMPTION.—Section 1306 of title 31, United States Code, shall not apply to local currencies used by the President under paragraphs (1) through (7) of subsection (c).

(2) USE OF CURRENCIES BY OTHER AGENCIES.—Any department or agency of the Federal Government other than the Department of Agriculture using any such local currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used.

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[18] Sec. 205(2)(B) of Public Law 104–127 (110 Stat. 953) struck out "recipient countries" and inserted in lieu thereof "appropriate developing countries".

[19] Formerly at 7 U.S.C. 1705. Sec. 206 of Public Law 104–127 (110 Stat. 953) repealed sec. 105, which had read as follows:

"SEC. 105. VALUE-ADDED FOODS.

"(a) POLICY.—Congress declares it to be the policy of the United States to assist developing countries that are or have been recipients of high protein, blended, or fortified foods under title II to continue to combat hunger and malnutrition among the lower income segments of the population of such countries, especially children, through the continued provision of such foods under this title.

"(b) PARTIAL WAIVER OF REPAYMENT.—In implementing the policy declared in subsection (a), the Secretary, in entering into agreements for the sale of high protein, blended, or fortified foods under this title with countries that—

"(1) provide assurances that the benefits of any waiver granted under this subsection will be passed on to the individual recipients of such foods; and

"(2) have a reasonable potential for transferring benefits of such waiver to commercial purchasers of such foods;

"may make provisions for a waiver of payment of not to exceed an amount equal to the value of that part of the product that is attributable to the costs of processing, enrichment, or fortification of such product.

Continued

SEC. 105.[19] * * * [Repealed—1996]

TITLE II—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS[20]

SEC. 201.[21] GENERAL AUTHORITY.

The President shall establish a program under this title to provide agricultural commodities to foreign countries on behalf of the people of the United States to—

(1) address famine or other urgent or extraordinary relief requirements;

(2) combat malnutrition, especially in children and mothers;

(3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;

(4) promote economic and community development;

(5) promote sound environmental practices; and

(6) carry out feeding programs.

Such program shall be implemented by the Administrator.

SEC. 202.[22] PROVISION OF AGRICULTURAL COMMODITIES.

(a) EMERGENCY ASSISTANCE.—Notwithstanding any other provision of law, the Administrator may provide agricultural commodities to meet emergency food needs under this title through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

(b)[23] NONEMERGENCY ASSISTANCE.—

(1) IN GENERAL.—The Administrator may provide agricultural commodities for nonemergency assistance under this title through eligible organizations (as described in subsection (d))

"(c) MINIMIZE IMPACT.—In implementing this section, the Secretary shall, to the extent practicable, minimize the impact of this section on other commercial and concessional sales of whole grains.".

[20] Sec. 703 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), provided the following:

"Sec. 703. Assistance for Private Voluntary Organizations.

"The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

"(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

"(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

"(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).".

In a memorandum of July 19, 1994, the President authorized "the release in fiscal year 1994 of up to 200,000 metric tons of wheat from the reserve established under the Act (the 'reserve') for use under Title II of the Agricultural Trade Development and Assistance Act of 1954 to meet relief needs that exist in the Caucasus region of the former Soviet Union, which I hereby determine are suffering severe food shortages. The wheat will be used to provide urgent humanitarian relief to the peoples in this region who are suffering widespread hunger and malnutrition.

"This action is taken because wheat needed for relief in this region cannot be programmed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need." (Presidential Determination No. 94–36 of July 19, 1994; 59 F.R. 37153).

[21] 7 U.S.C. 1721.

[22] 7 U.S.C. 1722.

[23] Sec. 207(a)(1) of Public Law 104–127 (110 Stat. 953) amended and restated subsec. (b). It formerly read as follows:

"(b) NON-EMERGENCY ASSISTANCE.—The Administrator may provide agricultural commodities for non-emergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use such commodities in accordance with this title.".

that have entered into an agreement with the Administrator to use the commodities in accordance with this title.

(2) LIMITATION.—The Administrator may not deny a request for funds submitted under this subsection because the program for which the funds are requested—

(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

(B) is not part of a development plan for the country prepared by the Agency.

(c) USES OF ASSISTANCE.—Agricultural commodities provided under this title may be made available for direct distribution, sale, barter, or other appropriate disposition.

(d) ELIGIBLE ORGANIZATIONS.—To be eligible to receive assistance under subsection (b) an organization shall be—

(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

(2) an intergovernmental organization, such as the World Food Program.

(e)[24] SUPPORT FOR ELIGIBLE ORGANIZATIONS.—

(1) IN GENERAL.—Of the funds made available in each fiscal year under this title to the Administrator, not less than $10,000,000 and not more than $28,000,000[25] shall be made available in each fiscal year to eligible organizations described in subsection (d), to assist the organizations[26] in—

(A) establishing new programs under this title; and

(B) meeting specific administrative, management, personnel and internal transportation and distribution costs for carrying out programs in foreign countries under this title.

(2)[27] REQUEST FOR FUNDS.—To receive funds made available under paragraph (1), an eligible organization described in subsection (d) shall submit a request for the funds that is subject to approval by the Administrator.

(3) ASSISTANCE WITH RESPECT TO SALE.—Upon the request of an eligible organization, the Administrator may provide assist-

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[24] Sec. 207(a)(2)(A) of Public Law 104–127 (110 Stat. 953) struck out "PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES" from the subsec. catchline and inserted in lieu thereof "ELIGIBLE ORGANIZATIONS".

[25] Sec. 207(a)(2)(B)(i) of Public Law 104–127 (110 Stat. 953) struck out "$13,500,000" and inserted in lieu thereof "$28,000,000".

[26] Sec. 207(a)(2)(B)(ii) of Public Law 104–127 (110 Stat. 954) struck out "private voluntary organizations and cooperatives, to assist such organizations and cooperatives" and inserted in lieu thereof "eligible organizations described in subsection (d), to assist the organizations".

[27] Sec. 207(a)(2)(C) of Public Law 104–127 (110 Stat. 954) amended and restated para. (2). It formerly read as follows:

"(2) REQUEST FOR FUNDS.—In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds (which must be approved by the Administrator) when submitting a proposal to the Administrator for an agreement under this title. Such request for funds shall include a specific explanation of—

"(A) the program costs to be offset by such funds;

"(B) the reason why such funds are needed in carrying out the particular assistance program; and

"(C) the degree to which such funds will improve the provision of food assistance to foreign countries (particularly those in sub-Saharan Africa suffering from acute, long-term food shortages).".

ance to the eligible organization[28] with respect to the sale of agricultural commodities made available to it under this title.

(f) EFFECTIVE USE OF COMMODITIES.—To ensure that agricultural commodities made available under this title are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

(2) assess and take into account nutritional and other needs of beneficiary groups;

(3) help such beneficiary groups design and carry out mutually acceptable projects;

(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

(5) supervise the distribution of commodities provided and the implementation of programs carried out under this title; and

(6) periodically evaluate the effectiveness of projects undertaken under this title.

(g) LABELING.—Commodities provided under this title shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

SEC. 203.[29] GENERATION AND USE OF FOREIGN CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

(a) LOCAL SALE AND BARTER OF COMMODITIES.—An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this title may provide for the sale or barter in the recipient country, or in a country in the same region,[30] of the commodities to be provided under such agreement.

(b) MINIMUM LEVEL OF LOCAL SALES.—In carrying out agreements of the type referred to in subsection (a), the Administrator shall permit private voluntary organizations and cooperatives to sell, in recipient countries, or in countries in the same region,[31] an amount of commodities equal to not less than 15 percent[32] of the aggregate amounts of all commodities distributed under non-emergency programs under this title for each fiscal year, to generate foreign currency proceeds to be used as provided in this section.

(c) DESCRIPTION OF INTENDED USES.—A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this title shall include in such proposal a description of the intended uses of any foreign

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[28] Sec. 207(a)(2)(D) of Public Law 104–127 (110 Stat. 954) struck out "a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative" and inserted in lieu thereof "an eligible organization, the Administrator may provide assistance to the eligible organization".

[29] 7 U.S.C. 1723.

[30] Sec. 208(1) of Public Law 104–127 (110 Stat. 954) inserted ", or in a country in the same region," after "in the recipient country".

[31] Sec. 208(2)(A) of Public Law 104–127 (110 Stat. 954) inserted "or in countries in the same region," after "in recipient countries,".

[32] Sec. 208(2)(B) of Public Law 104–127 (110 Stat. 954) struck out "10 percent" and inserted in lieu thereof "15 percent".

currency proceeds that may be generated through the sale, in the recipient country, or in a country in the same region,[33] of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

(d) USE.—Foreign currencies generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this title may—

(1) be used to transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under this title;

(2) be used to implement income generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within the recipient country or within a country in the same region;[34] or

(3) be invested and any interest earned on such investment may be used for the purposes for which the assistance was provided to that organization, without further appropriation by Congress.

SEC. 204.[35] LEVELS OF ASSISTANCE.

(a) MINIMUM LEVELS.—

(1) MINIMUM ASSISTANCE.—Except as provided in paragraph (3), the Administrator shall make agricultural commodities available for food distribution under this title in an amount that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons.[36]

(2) MINIMUM NON-EMERGENCY ASSISTANCE.—Of the amounts specified in paragraph (1), and except as provided in paragraph (3), the Administrator shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 202 in an amount that for each of fiscal years 1996 through 2002 is not less than 1,550,000 metric tons.[37]

(3) EXCEPTION.—The Administrator may waive the requirements of paragraphs (1) and (2) for any fiscal year if the Administrator determines that such quantities of commodities cannot be used effectively to carry out this title or in order to meet an emergency. In making a waiver under this paragraph, the Administrator shall prepare and submit to the Committee

[33] Sec. 208(3) of Public Law 104–127 (110 Stat. 954) inserted "or in a country in the same region," after "in the recipient country,".

[34] Sec. 208(4) of Public Law 104–127 (110 Stat. 954) inserted "or within a country in the same region" after "within the recipient country".

[35] 7 U.S.C. 1724.

[36] Sec. 209(1)(A) of Public Law 104–127 (110 Stat. 954) struck out metric ton minimum assistance amounts for fiscal years 1991 through 1995, and inserted levels for fiscal years 1996 through 2002. Amounts for fiscal years 1991 through 1995 were: for fiscal year 1991, is not less than 1,925,000 metric tons; fiscal year 1992, is not less than 1,950,000 metric tons; fiscal year 1993, is not less than 1,975,000 metric tons; fiscal year 1994, is not less than 2,000,000 metric tons; and fiscal year 1995, is not less than 2,025,000 metric tons.

[37] Sec. 209(1)(B) of Public Law 104–127 (110 Stat. 954) struck out metric ton minimum non-emergency assistance amounts for fiscal years 1991 through 1995, and inserted levels for fiscal years 1996 through 2002. Amounts for fiscal years 1991 through 1995 were: for fiscal year 1991, is not less than 1,450,000 metric tons; fiscal year 1992, is not less than 1,475,000 metric tons; fiscal year 1993, is not less than 1,500,000 metric tons; fiscal year 1994, is not less than 1,525,000 metric tons; and fiscal year 1995, is not less than 1,550,000 metric tons.

on Foreign Affairs[38] and Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the reasons for the waiver. No waiver shall be made before the beginning of the applicable fiscal year.[39]

(b) USE OF VALUE-ADDED COMMODITIES.—

(1) MINIMUM LEVELS.—Except as provided in paragraph (2), in making agricultural commodities available under this title, the Administrator shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2) be in the form of processed, fortified, or bagged commodities and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States.[40]

(2) WAIVER OF MINIMUM.—The Administrator may waive the requirement of paragraph (1) for any fiscal year in which the Administrator determines that the requirements of the programs established under this title will not be best served by the enforcement of such requirement under such paragraph.

SEC. 205.[41] FOOD AID CONSULTATIVE GROUP.

(a) ESTABLISHMENT.—There is established a Food Aid Consultative Group (hereinafter referred to in this section as the "Group") that shall meet regularly to review and address issues concerning the effectiveness of the regulations and procedures that govern food assistance programs established and implemented under this title, and the implementation of other provisions of this title that may involve eligible organizations described in section 202(d)(1).[42]

(b) MEMBERSHIP.—The Group shall be composed of—

(1) the Administrator;

(2) the Under Secretary of Agriculture for Farm and Foreign Agricultural Service;[43]

(3) the Inspector General of the Agency for International Development;

(4) a representative of each private voluntary organization and cooperative participating in a program under this title, or receiving planning assistance funds from the Agency to establish programs under this title;[44]

(5) representatives from African, Asian and Latin American indigenous non-governmental organizations determined appropriate by the Administrator; and[44]

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[38] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[39] Sec. 209(1)(C) of Public Law 104–127 (110 Stat. 955) added the last sentence to para. (3).

[40] Sec. 209(2) of Public Law 104–127 (110 Stat. 955) added "and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States" at the end of the sentence.

[41] 7 U.S.C. 1725.

[42] Sec. 210(1) of Public Law 104–127 (110 Stat. 955) struck out "private voluntary organizations, cooperatives and indigenous non-governmental organizations" and inserted in lieu thereof "eligible organizations described in section 202(d)(1)".

[43] Sec. 210(2)(A) of Public Law 104–127 (110 Stat. 955) struck out "for International Affairs and Commodity Programs" and inserted in lieu thereof "of Agriculture for Farm and Foreign Agricultural Service".

[44] Sec. 210(2) of Public Law 104–127 (110 Stat. 955) struck out "and" at the end of para. (4); struck out the period at the end of para. (5) and inserted instead "; and"; and added a new para. (6).

(6)[44] representatives from agricultural producer groups in the United States.

(c) CHAIRPERSON.—The Administrator shall be the chairperson of the Group.

(d) CONSULTATIONS.—In preparing regulations, handbooks, or guidelines implementing this title, or significant revisions thereto, the Administrator shall provide such proposals to the Group for review and comment. The Administrator shall consult and, when appropriate (but at least twice per year),[45] meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

(e) ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Group.

(f) TERMINATION.—The Group shall terminate on December 31, 2002.[46]

SEC. 206.[47] MAXIMUM LEVEL OF EXPENDITURES.

(a) MAXIMUM EXPENDITURES.—Except as provided in subsection (b), programs of assistance shall not be undertaken under this title during any fiscal year if such programs necessitate an appropriation of more than $1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available).

(b) WAIVER BY PRESIDENT.—The President may waive the limitation contained in subsection (a) if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian or emergency needs.

SEC. 207.[48] ADMINISTRATION.

(a) PROPOSALS.—

(1) TIME FOR DECISION.—Not later than 45 days after the receipt by the Administrator of a proposal submitted—

(A) by an eligible organization,[49] with the concurrence of the appropriate United States field mission, for commodities; or

(B) by a United States field mission to make commodities available to an eligible organization;[49]

under this title, the Administrator shall make a decision concerning such proposal.

(2) DENIAL.—If a proposal under paragraph (1) is denied, the response shall specify the reasons for denial and the conditions that must be met for the approval of such proposal.

(b) NOTICE AND COMMENT.—Not later than 30 days prior to the issuance of a final guideline to carry out this title, the Administrator shall—

(1) provide notice of the existence of a proposed guideline, and that such guideline is available for review and comment,

[45] Sec. 210(3) of Public Law 104–127 9110 Stat. 955) added parenthetical text.

[46] Sec. 210(4) of Public Law 104–127 (110 Stat. 955) struck out "1995" and inserted instead "2002".

[47] 7 U.S.C. 1726.

[48] 7 U.S.C. 1726a.

[49] Sec. 207(b)(1) of Public Law 104–127 (110 Stat. 954) struck out "a private voluntary organization or cooperative" and inserted in lieu thereof "an eligible organization".

to eligible organizations[50] that participate in programs under this title, and to other interested persons;

(2) make the proposed guideline available, on request, to the eligible organizations,[51] and other persons referred to in paragraph (1); and

(3) take any comments received into consideration prior to the issuance of the final guideline.

(c) REGULATIONS.—

(1) IN GENERAL.—The Administrator shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this title.

(2) REQUIREMENTS.—The Administrator shall develop regulations with the intent of—

(A) simplifying procedures for participation in the programs established under this title;

(B) reducing paperwork requirements under such programs;

(C) establishing reasonable and realistic accountability standards to be applied to eligible organizations participating in the programs established under this title, taking into consideration the problems associated with carrying out programs in developing countries; and

(D) providing flexibility for carrying out programs under this title.

(3) HANDBOOKS.—Handbooks developed by the Administrator to assist in carrying out the program under this title shall be designed to foster the development of programs under this title by eligible organizations.

(d) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt from a United States field mission of a call forward for agricultural commodities for programs that meet the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

TITLE III—FOOD FOR DEVELOPMENT

SEC. 301.[52] BILATERAL GRANT PROGRAM.

(a) IN GENERAL.—The President shall establish a program under which agricultural commodities are donated in accordance with this title to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. Such program shall be implemented by the Administrator.

(b) GENERAL AUTHORITY.—To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis.

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[50] Sec. 207(b)(2)(A) of Public Law 104–127 (110 Stat. 954) struck out "private voluntary organizations and cooperatives" and inserted in lieu thereof "eligible organizations".

[51] Sec. 207(b)(2)(B) of Public Law 104–127 (110 Stat. 954) struck out "organizations, cooperatives" and inserted in lieu thereof "eligible organizations".

[52] 7 U.S.C. 1727.

SEC. 302.[53] ELIGIBLE COUNTRIES.

(a) LEAST DEVELOPED COUNTRIES.—A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under this title if—

(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference for providing financial assistance; or

(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (b).

(b) INDICATORS OF FOOD DEFICIT COUNTRIES.—To make a finding under subsection (a)(2) that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator must determine that the country meets all of the following indicators of national food deficit and malnutrition:

(1) CALORIE CONSUMPTION.—That the daily per capita calorie consumption of the country is less than 2300 calories.

(2) FOOD SECURITY REQUIREMENTS.—That the country cannot meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings.

(3) CHILD MORTALITY RATE.—That the mortality rate of children under 5 years of age in the country is in excess of 100 per 1000 births.

(c) PRIORITY.—In determining whether and to what extent agricultural commodities shall be made available to least developed countries under this title, the Administrator shall give priority to countries that—

(1) demonstrate the greatest need for food;

(2) demonstrate the capacity to use food assistance effectively;

(3) have demonstrated a commitment to policies to promote food security, including policies to reduce measurably hunger and malnutrition through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those who are nutritionally at risk; and

(4) have a long-term plan for broad-based, equitable, and sustainable development.

SEC. 303.[54] GRANT PROGRAMS.

To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis either through the Commodity Credit Corporation or through private trade channels.

SEC. 304.[55] DIRECT USES OR SALES OF COMMODITIES.

Agricultural commodities provided to a least developed country under this section—

(1) may be used in such country for—

(A) direct feeding programs, including programs that include activities that deal directly with the special health

[53] 7 U.S.C. 1727a.
[54] 7 U.S.C. 1727b.
[55] 7 U.S.C. 1727c.

needs of children and mothers consistent with section 104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund; or

(B) the development of emergency food reserves; or

(2) may be sold in such country by the government of the country or the Administrator (or their designees) as provided in the agreement, and the proceeds of such sale used in accordance with this title.

SEC. 305.[56] LOCAL CURRENCY ACCOUNTS.

(a) RETENTION OF PROCEEDS.—To the extent determined to be appropriate by the Administrator, revenues generated from the sale, under section 304(2), of agricultural commodities provided under this title shall be deposited into a separate account (that may be interest bearing) in the recipient country to be disbursed for the benefit of such country in accordance with local currency agreements entered into between the recipient country and the Administrator. The Administrator may determine not to deposit such revenues in a separate account if—

(1) local currencies are to be programmed for specific economic development purposes listed in section 306(a); and

(2) the recipient country programs an equivalent amount of money for such purposes as specified in an agreement entered into by the Administrator and the recipient country.

(b) OWNERSHIP AND PROGRAMMING OF ACCOUNTS.—The proceeds of sales pursuant to section 304(2) shall be the property of the recipient country or the United States, as specified in the applicable agreement. Such proceeds shall be utilized for the benefit of the recipient country, shall be jointly programmed by the Administrator and the government of the recipient country, and shall be disbursed for the benefit of such country in accordance with local currency agreements between the Administrator and that government.

(c) OVERALL DEVELOPMENT STRATEGY.—The Administrator shall consider the local currency proceeds as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

SEC. 306.[57] USE OF LOCAL CURRENCY PROCEEDS.

(a) IN GENERAL.—The local currency proceeds of sales pursuant to section 304(2) shall be used in the recipient country for specific economic development purposes, including—

(1) the promotion of specific policy reforms to improve food security and agricultural development within the country and to promote broad-based, equitable, and sustainable development;

(2) the establishment of development programs, projects, and activities that promote food security, alleviate hunger, improve nutrition, and promote family planning, maternal and child health care, oral rehydration therapy, and other child survival objectives consistent with section 104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund;

[56] 7 U.S.C. 1727d.
[57] 7 U.S.C. 1727e.

(3) the promotion of increased access to food supplies through the encouragement of specific policies and programs designed to increase employment and incomes within the country;

(4) the promotion of free and open markets through specific policies and programs;

(5) support for United States private voluntary organizations and cooperatives and encouragement of the development and utilization of indigenous nongovernmental organizations;

(6) the purchase of agricultural commodities (including transportation and processing costs) produced in the country—

(A) to meet urgent or extraordinary relief requirements in the country or in neighboring countries; or

(B) to develop emergency food reserves;

(7) the purchase of goods and services (other than agricultural commodities and related services) to meet urgent or extraordinary relief requirements;

(8) the payment, to the extent practicable, of the costs of carrying out the program authorized in title V;

(9) private sector development activities designed to further the policies set forth in section 2, including loans to financial intermediaries for use in making loans to private individuals, cooperatives, corporations, or other entities;

(10) activities of the Peace Corps that relate to agricultural production;

(11) the development of rural infrastructure such as roads, irrigation systems, and electrification to enhance agricultural production;

(12) research on malnutrition and its causes, as well as research relating to the identification and application of policies and strategies for targeting resources made available under this section to address the problem of malnutrition; and

(13) support for research (including collaborative research which is mutually beneficial to the United States and the recipient country), education, and extension activities in agricultural sciences.

Section 1306 of title 31, United States Code, shall not apply to the use under this subsection of local currency proceeds that are owned by the United States.

(b)[58] SUPPORT OF NON-GOVERNMENTAL ORGANIZATIONS.—To the extent practicable, not less than 10 percent of the amounts contained in an account established for a recipient country under section 305(a) shall be used by such country to support the development and utilization of[59] nongovernmental organizations and cooperatives that are active in rural development, agricultural education, sustainable agricultural production, other measures to assist poor people, and environmental protection projects within such country.

(c) INVESTMENT OF LOCAL CURRENCIES BY NONGOVERNMENTAL ORGANIZATIONS.—A nongovernmental organization may invest local

[58] Sec. 211(a)(1) of Public Law 104–127 (110 Stat. 955) struck out "Indigenous" before "Non-Governmental" in the subsec. heading.

[59] Sec. 211(a)(2) of Public Law 104–127 (110 Stat. 955) struck out "indigenous" before "nongovernmental organizations".

currencies that accrue to that organization as a result of assistance under subsection (a), and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization without further appropriation by the Congress.

(d) SUPPORT FOR CERTAIN EDUCATIONAL INSTITUTIONS.—If the Administrator determines that local currencies deposited in a special account pursuant to this title are not needed for any of the activities prescribed in paragraphs (1) through (13) of subsection (a) or for any other specific economic development purpose in the recipient country, the Administrator may use those currencies to provide support for any institution (other than an institution whose primary purpose is to provide religious education) located in the recipient country that provides education in agricultural sciences or other disciplines for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

TITLE IV—GENERAL AUTHORITIES AND REQUIREMENTS

SEC. 401.[60] COMMODITY DETERMINATIONS.

(a) AVAILABILITY OF COMMODITIES.—No agricultural commodity shall be available for disposition under this Act if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Secretary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.

(b)[60] INELIGIBLE COMMODITIES.—

(1) ALCOHOLIC BEVERAGES.—Alcoholic beverages shall not be made available for disposition under this Act.

(2) TOBACCO.—Tobacco or the products thereof shall not be made available under section 303 or title II of this Act.

(c)[60] MARKET DEVELOPMENT ACTIVITIES.—Subsection (b)(1)[61] shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage in-

[60] 7 U.S.C. 1731. Sec. 212 of Public Law 104–127 (110 Stat. 955) amended and restated subsec. (a), struck out subsecs. (b) through (d), and redesignated subsecs. (e) and (f) as subsecs. (b) and (c). Former subsections (b) through (d) read as follows:

"(a) AVAILABLE COMMODITIES.—After consulting with other agencies of the Federal Government affected and within policies established by the President for implementing this Act, and after taking into consideration productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary shall determine, prior to the beginning of each fiscal year, the agricultural commodities and quantities thereof available for disposition under this Act.

"(b) MODIFICATION.—The Secretary may, during the fiscal year, modify a determination made under subsection (a) if the Secretary provides to the Congress prior notice of that modification (including a statement of the reasons for the modification).

"(c) COMMODITIES NOT AVAILABLE.—No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary, unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.

"(d) POLICIES FOR IMPLEMENTING ACT.—The Secretary shall, to the extent practicable, seek to maintain a stable level of available agricultural commodities under this Act of the kind and type needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements entered into under this Act.".

[61] Sec. 212(3) of Public Law 104–127 (110 Stat. 956) struck out "(e)(1)" and inserted in lieu thereof "(b)(1)".

dustry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under title I of this Act.

SEC. 402.[62] DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development, unless otherwise specified in this Act.

(2) AGRICULTURAL COMMODITY.—The term "agricultural commodity", unless otherwise provided for in this Act, includes any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products. Effective beginning on October 1, 1991, for purposes of title II, a product of an agricultural commodity shall not be considered to be produced in the United States if it contains any ingredient that is not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.

(3) COOPERATIVE.—The term "cooperative" means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

(4) DEVELOPING COUNTRY.—The term "developing country" means a country that has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels.

(5) FOOD SECURITY.—The term "food security" means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

(6)[63] NONGOVERNMENTAL ORGANIZATION.—The term "nongovernmental organization" means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.

(7) PRIVATE VOLUNTARY ORGANIZATION.—The term "private voluntary organization" means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public,

[62] 7 U.S.C. 1732.

[63] Sec. 211(b) of Public Law 104–127 (110 Stat. 955) amended and restated para. (6). It formerly read as follows:

"(6) INDIGENOUS NONGOVERNMENTAL ORGANIZATION.—The term 'indigenous nongovernmental organization' means an organization that operates under the laws of the recipient country, or that has its principal place of activity in such country, and that works at the local level to solve development problems in the foreign country in which it is located, except that the term does not include an organization that is primarily an agent or instrumentality of the foreign government.".

and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified in this Act.

SEC. 403.[64] GENERAL PROVISIONS.

(a) PROHIBITION.—No agricultural commodity shall be made available under this Act unless it is determined that—

(1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or waste of the commodity; and

(2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

(b)[65] IMPACT ON LOCAL FARMERS AND ECONOMY.—The Secretary or the Administrator, as appropriate, shall[66] ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

(c) TRANSSHIPMENT.—The Secretary or the Administrator, as appropriate, shall, under such terms and conditions as are determined to be appropriate, require commitments[67] designed to prevent or restrict the resale or transshipment to other countries, or use[68] for other than domestic purposes, of agricultural commodities donated or purchased under this Act.

(d) PRIVATE TRADE CHANNELS AND SMALL BUSINESS.—Private trade channels shall be used under this Act to the maximum extent practicable in the United States and in the recipient countries with respect to—

(1) sales from privately owned stocks;

(2) sales from stocks owned by the Commodity Credit Corporation; and

(3) donations.

Small businesses shall be provided adequate and fair opportunity to participate in such sales.

(e) WORLD PRICES.—In carrying out this Act, reasonable precautions shall be taken to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

(f) PUBLICITY.—Commitments shall be obtained from countries or private entities, as appropriate,[69] receiving commodities under this

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[64] 7 U.S.C. 1733.

[65] Sec. 213(1)(A) of Public Law 104–127 (110 Stat. 956) struck out the subsec. heading "Consultations" and inserted in lieu thereof "Impact on Local Farmers and Economy".

[66] Sec. 213(1)(B) of Public Law 104–127 (110 Stat. 956) struck out "consult with representatives from the International Monetary Fund, the International Bank for Reconstruction and Development, the World Bank, and other donor organizations to" after "shall".

[67] Sec. 213(2)(A) of Public Law 104–127 (110 Stat. 956) struck out "from countries" after "commitments".

[68] Sec. 213(2)(B) of Public Law 104–127 (110 Stat. 956) struck out "for use" and inserted instead "or use".

[69] Sec. 213(3)(A) of Public Law 104–127 (110 Stat. 956) inserted "or private entities, as appropriate" after "from countries".

Act that such countries or private entities[70] will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

(g) PARTICIPATION OF PRIVATE SECTOR.—The Secretary or the Administrator, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this Act.

(h) SAFEGUARD USUAL MARKETINGS.—In carrying out this Act, reasonable precautions shall be taken to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made.

(i) MILITARY DISTRIBUTION OF FOOD AID.—

(1) IN GENERAL.—The Secretary or the Administrator, as appropriate, shall attempt to ensure that agricultural commodities made available under this Act will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

(2)[71] PROHIBITION ON HANDLING OF COMMODITIES BY THE MILITARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary or the Administrator, as appropriate, shall not enter into an agreement under this Act to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military forces of any government or insurgent group.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary or the Administrator, as appropriate, may authorize the handling or distribution of commodities by the military forces of a country in exceptional circumstances in which—

(i) nonmilitary channels are not available for such handling or distribution;

(ii) such action is consistent with the requirements of paragraph (1); and

(iii) the Secretary or the Administrator, as appropriate, determines that such action is necessary to meet the emergency health, safety, or nutritional requirements of the recipient population.

(3) ENCOURAGEMENT OF SAFE PASSAGE.—When entering into agreements under this Act that involve areas within recipient countries that are experiencing protracted warfare or civil strife, the Secretary or the Administrator, as appropriate, shall, to the extent practicable, encourage all parties to the conflict to permit safe passage of the commodities and other re-

[70] Sec. 213(3)(B) of Public Law 104–127 (110 Stat. 956) inserted "or private entities" after "such countries".

[71] Sec. 213(4) of Public Law 104–127 (110 Stat. 956) struck out subpara. (C), which had required the Secretary or Administrator to report to Congress within 30 days of an authorization under subpara. (B).

lief supplies and to establish safe zones for medical and humanitarian treatment and evacuation of injured persons.

(j)[72] VIOLATIONS OF HUMAN RIGHTS.—

(1) INELIGIBLE COUNTRIES.—The Secretary or the Administrator, as appropriate, shall not enter into any agreement under this Act to provide agricultural commodities, or to finance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

(A) the torture or cruel, inhuman, or degrading treatment or punishment of individuals;

(B) the prolonged detention of individuals without charges;

(C) the responsibility for causing the disappearance of individuals through the abduction and clandestine detention of such individuals; or

(D) other flagrant denials of the right to life, liberty, and the security of persons.

(2) WAIVER.—Paragraph (1) shall not prohibit the provision of assistance to such a country if the assistance is targeted to the most needy people in such country and is made available in such country through channels other than the government.

(k) ABORTION PROHIBITION.—Local currencies that are made available for use under this Act may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

SEC. 404.[73] AGREEMENTS.

(a) IN GENERAL.—Before entering into agreements with foreign countries[74] under titles I and III for the provision of commodities, the Secretary or the Administrator, as appropriate, shall consider the extent to which the recipient country is undertaking measures for economic development purposes in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development.

(b) TERMS OF AGREEMENT.—An agreement entered into under this Act shall—

(1) include an estimate of the annual value or volume of agricultural commodities proposed to be made available to the country or eligible organization under the agreement;

(2) with respect to agreements entered into with foreign countries[75] under titles I and III, include a statement of the manner in which the agricultural commodities provided under the agreement or the revenues generated by the sale of such commodities (if such commodities are sold), will be integrated into the overall development plans of the country to improve food security and agricultural development, alleviate poverty,

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[72] Sec. 4(b) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) (redesignated as sec. 4(a) by Executive Order 13044 of April 18, 1997), delegated to the Secretary of State the function conferred to the President in sec. 403(j).

[73] 7 U.S.C. 1734.

[74] Sec. 214(1) of Public Law 104–127 (110 Stat. 956) inserted "with foreign countries" after "into agreements".

[75] Sec. 214(2)(A) of Public Law 104–127 (110 Stat. 956) inserted "with foreign countries" after "agreements entered into".

and promote broad-based, equitable, and sustainable agriculture and broad-based economic growth;[76]

(3) with respect to agreements entered into under titles I and III, include a statement of the manner in which competitive private sector participation within the recipient country in the storage, marketing, transportation, and distribution of agricultural commodities made available under this Act will be encouraged;

(4) include a statement that such agreement shall be subject to the availability, during each fiscal year to which the agreement applies, of the necessary appropriations and agricultural commodities; and

(5) contain such other terms and conditions as the Secretary or the Administrator, as appropriate, determines to be necessary.

(c) MULTI-YEAR AGREEMENTS.—

(1)[77] IN GENERAL.—Agreements to provide assistance on a multi-year basis to recipient countries or to eligible organizations—

(A) may be made available under titles I and III; and

(B) shall be made available under title II.

(2) EXCEPTION.—The Secretary or the Administrator, as appropriate, may determine not to make assistance available on a multi-year basis with respect to a recipient country or an eligible organization if it is determined that assistance should be provided to such country or through such organization only on an annual basis because—

(A) the past performance of the country or organization in meeting program objectives does not warrant a multi-year agreement;

(B) it is anticipated that the need of the country or organization for food aid does not extend beyond 1 year; or

(C) other circumstances, as determined by the Secretary or the Administrator, as appropriate, indicate there is only a need for a 1 year agreement.

(d) REVIEW OF AGREEMENTS.—The Secretary or the Administrator, as appropriate, may make a determination to terminate, or refuse to enter into, a multi-year agreement with respect to a recipient country if the Secretary or the Administrator determines that such country is not fulfilling the objectives or requirements of this Act. In making such a determination, the Secretary or the Administrator, as appropriate, may consider the extent to which the country is—

(1) making significant economic development reforms;

(2) promoting free and open markets for food and agricultural producers; and

(3) fostering increased food security.

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[76] Sec. 214(2)(B) of Public Law 104–127 (110 Stat. 956) inserted "and broad-based economic growth" before the semicolon.

[77] Sec. 214(3) of Public Law 104–127 (110 Stat. 956) amended and restated para. (1), which formerly read as follow:

"(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis under this Act shall be made available to recipient countries or to eligible organizations.".

SEC. 405.[78] CONSULTATION.

The Secretary and the Administrator shall cooperate and consult in the implementation of this Act.

SEC. 406.[79] USE OF COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—The Commodity Credit Corporation may[80] acquire and make available such agricultural commodities (that have been determined to be available under section 401(a)) as necessary to carry out agreements under this Act.

(b) INCLUDED EXPENSES.—With respect to commodities made available under titles II and III,[81] the Commodity Credit Corporation may pay—

(1) the cost of acquiring such commodities;

(2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;

(3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;

(4)[82] the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—

(A) of landlocked countries;

(B) of ports that cannot be used effectively because of natural or other disturbances;

(C) of the unavailability of carriers to a specific country; or

(D) of substantial savings in costs or time[83] that may be effected by the utilization of points of entry other than ports;

(6) in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(c) COMMODITY CREDIT CORPORATION.—The funds, facilities, and authorities of the Commodity Credit Corporation may be used to carry out this Act.

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[78] 7 U.S.C. 1735.

[79] 7 U.S.C. 1736.

[80] Sec. 215(1) of Public Law 104–127 (110 Stat. 956) struck out "shall" and inserted in lieu thereof "may".

[81] Sec. 215(2)(A) of Public Law 104–127 (110 Stat. 956) struck out "this Act" and inserted in lieu thereof "titles II and III".

[82] Sec. 215(2)(B) of public Law 104–127 (110 Stat. 956) struck out and restated para. (4). It formerly read as follows:

"(4) the ocean freight charges from United States ports to designated ports of entry abroad;".

[83] Sec. 323 of Public Law 102–237 (105 Stat. 1857) struck out "items" and inserted in lieu thereof "time".

SEC. 407.[84, 85] ADMINISTRATIVE PROVISIONS.

(a) TITLE I PROGRAMS.—

(1) ACQUISITIONS.—The importing country or private entity that enters into an agreement under title I[86] shall acquire the agricultural commodities to be financed under title I.

(2) INVITATION FOR BID.—No purchase of agricultural commodities from private stock or purchase of ocean transportation shall be financed under title I unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings that shall conform to such invitation and be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under title I shall be considered with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary. Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.[87]

(b)[85] AGENTS.—

(1) AUTHORITY OF THE SECRETARY OR COMMODITY CREDIT CORPORATION.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), if it is determined appropriate, the Secretary or the Commodity Credit Corporation may serve as the purchasing or shipping agent, or both, for the importer or[88] importing country in arranging the purchase or shipping of commodities financed under title I.[89]

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary or the Commodity Credit Corporation may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Secretary or the Corporation to handle the shipping of commodities financed under this Act.

(C) AVOIDANCE OF CONFLICT OF INTEREST OF CONTRACTORS.—Freight agents employed by the Secretary or the Commodity Credit Corporation under title I shall not represent any[90] foreign government during the period of their contract with the United States Government.

(2) REASONABLE FEES AND COMMISSIONS.—

(A) FEES.—Notwithstanding any other provision of law, the Secretary or the Commodity Credit Corporation may

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[84] 7 U.S.C. 1736a.

[85] Sec. 1011(e) of Public Law 104–66 (109 Stat. 709) struck out subsec. (b) of this section, which had required that fees paid to agents of an importing country by suppliers otherwise financed by the Commodity Credit Corporation under title I shall be reported to the Secretary by the suppliers. The amendment also redesignated subsecs. (c) through (h) as subsecs. (b) through (g). Subsec. (g) was struck out by sec. 216(5) of Public Law 104–127 (110 Stat. 957). The amendment was made to subsec. (h), but is probably intended for subsec. (g) as redesignated by Public Law 104–66, and is incorporated as such an amendment. Subsec. (g) had required that the President report annually to Congress on progress toward food security in each country receiving U.S. Government food assistance.

[86] Sec. 216(1)(A) of Public Law 104–127 (110 Stat. 957) inserted "or private entity that enters into an agreement under title I" after "importing country".

[87] Sec. 216(A)(2) of Public Law 104–127 (110 Stat. 957) added the last sentence.

[88] Sec. 216(2)(A) of Public Law 104–127 (110 Stat. 957) inserted "importer or" before "importing country". The amendment was made to subsec. (c), but is probably intended for subsec. (b) as redesignated by Public Law 104–66, and is incorporated as such an amendment.

[89] Sec. 324 of Public Law 102–237 (105 Stat. 1857) struck out "this section" and inserted in lieu thereof "title I".

[90] Sec. 325 of Public Law 102–237 (105 Stat. 1857) struck out "other".

enter into an agreement with the importer or[91] importing country that contains the terms and conditions that will govern the provision of purchasing or shipping agent services by the Secretary or the Corporation, including the establishment of fees for such services. Any such fees shall be fair and reasonable in relation to the services performed and shall be available as reimbursement for costs incurred in providing such services.

(B) PROHIBITION ON COMMISSIONS.—Commissions, fees, or other payments to any selling agent or to any agent of a purchaser shall be prohibited in the purchase of agricultural commodities that are financed under title I of[92] this Act.

(3) LIMITATIONS.—No commission, fees, or other payments to an agent, broker, consultant, or other representative of the importer or importing country for ocean transportation brokerage services in connection with the carriage of commodities provided under title I of[92] this Act may—

(A) be paid in excess of an amount determined appropriate by the Secretary; and

(B) be shared by such person with the importer or importing country or any agent thereof.

(4) AVOIDANCE OF CONFLICT OF INTEREST.—A person may not be an agent, broker, consultant, or other representative of the United States Government, an importer, or an importing country in connection with agricultural commodities provided under this Act during a fiscal year in which such person provides or[93] acts as an agent, broker, consultant, or other representative of a person[94] engaged in providing ocean transportation-related services for such commodities. For the purpose of this paragraph, the term "transportation-related services" means lightening, stevedoring, bagging, or inland transportation to the destination point.

(c)[85, 95] TITLE II AND III PROGRAM.—

(1) ACQUISITION.—The Administrator shall transfer, arrange for the transportation, and take other steps necessary to make available agricultural commodities to be provided under title II and title III.

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[91] Sec. 216(2)(A) of Public Law 104–127 (110 Stat. 957) inserted "importer or" before "importing country". The amendment was made to subsec. (c), but is probably intended for subsec. (b) as redesignated by Public Law 104–66, and is incorporated as such an amendment.

[92] Sec. 319 of Public Law 102–237 (105 Stat. 1857) inserted "title I of" before "this Act" in sec. 407(c)(2)(B) and 407(c)(3).

[93] Sec. 328(a)(1) of Public Law 102–237 (105 Stat. 1828) inserted "provides or" after "in which such person".

[94] Sec. 328(a)(2) of Public Law 102–237 (105 Stat. 1828) struck out "if the person is" and inserted in lieu thereof "of a person".

[95] Sec. 216(3)(B) of Public Law 104–127 (110 Stat. 957) struck out para. (4) to this section. The amendment was made to subsec. (d), but is probably intended for subsec. (c) as redesignated by Public Law 104–66, and is incorporated as such an amendment. Former para. (4) read as follows:

"(4) OCEAN TRANSPORTATION SERVICES.—Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions relating to the making or performance of Federal Government contracts, the Administrator may procure ocean transportation services under this Act under such full and open competitive procedures as the Administrator determines are necessary and appropriate.".

(2)[96] FREIGHT PROCUREMENT.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions of law relating to the making or performance of Federal Government contracts, ocean transportation under titles II and III may be procured on the basis of full and open competitive procedures. Resulting contracts may contain such terms and conditions as the Administrator determines are necessary and appropriate.

(3) AVOIDANCE OF CONFLICT OF INTEREST.—Freight agents employed by the Agency for International Development under titles II and III shall not represent any[97] foreign government during the period of their contract with the United States Government.

(d)[85] TIMING OF SHIPMENTS.—In determining the timing of the shipment of agricultural commodities to be provided under this Act, the Secretary or the Administrator, as appropriate, shall consider—

(1) the time of harvest of any competing commodities in the recipient country; and

(2) such other concerns determined to be appropriate.

(e)[85] DEADLINE FOR AGREEMENTS UNDER TITLES I AND III.—An agreement under titles I and III shall, to the extent practicable, be entered into not later than—

(1) November 30 of the first fiscal year in which agricultural commodities are to be shipped under the agreement; or

(2) 60 days after the date of enactment of the annual Rural Development, Agriculture, and Related Agencies Appropriations Act for the first fiscal year in which agricultural commodities are to be shipped under the agreement,

whichever is later.

(f)[85] ANNUAL REPORTS.—

(1) IN GENERAL.—The President shall prepare an annual report concerning the programs and activities implemented under this Act for the preceding fiscal year.

(2) CONTENTS.—Each report shall include—

(A) the countries and organizations receiving food and other assistance provided to each country and organization under this Act;

(B) a general description of the projects or activities implemented under this Act, including local currency funded activities;[98]

(C) a statement of the amount of agricultural commodities made available to each country pursuant to section

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[96] Sec. 216(3)(A) of Public Law 104–127 (110 Stat. 957) struck out and restated para. (2). The amendment was made to subsec. (d), but is probably intended for subsec. (c) as redesignated by Public Law 104–66, and is incorporated as such an amendment. Former para. (2) read as follows:

"(2) FULL AND OPEN COMPETITION.—No purchase of agricultural commodities from private stocks or purchase of ocean transportation services by the United States Government shall be financed under titles II and III unless such purchases are made on the basis of full and open competition utilizing such procedures as are determined necessary and appropriate by the Administrator.".

[97] Sec. 328(b) of Public Law 102–237 (105 Stat. 1858) struck out "other".

[98] Sec. 216(4) of Public Law 104–127 (110 Stat. 957) struck out "; and" at the end of subpara. (B); struck out a period and inserted "; and" at the end of subpara. (C); and added a new subpara. (D). The amendment was made to subsec. (g), but is probably intended for subsec. (f) as redesignated by Public Law 104–66, and is incorporated as such an amendment.

416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985; and[98]

(D)[98] an assessment of the progress towards achieving food security in each country receiving food assistance from the United States Government, with special emphasis on the nutritional status of the poorest populations in each country.

(3) SUBMISSION.—The President shall submit such report not later than January 15 of each year to the Committee on Agriculture and the Committee on Foreign Affairs[99] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 408.[100] EXPIRATION DATE.

No agreements to finance sales or to provide other assistance under this Act shall be entered into after December 31, 2002.[101]

SEC. 409.[102] * * * [Repealed—1996]

SEC. 410.[103] * * * [Repealed—1996]

SEC. 411.[104] DEBT FORGIVENESS.

(a) AUTHORITY.—The President, taking into account the financial resources of a country, may waive payments of principal and interest that such country would otherwise be required to make to the Commodity Credit Corporation under dollar sales agreements under title I[105] if—

(1) that country is a least developed country; and

(2) either—

(A) an International Monetary Fund standby agreement is in effect with respect to that country;

(B) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country;

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[99] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[100] 7 U.S.C. 1736b.

[101] Sec. 217 of Public Law 104–127 (110 Stat. 957) struck out "1995" and inserted in lieu thereof "2002".

[102] Formerly at 7 U.S.C. 1736c. Sec. 218 of Public Law 104–127 (110 Stat. 957) repealed sec. 409, which had provided that "Not later than 180 days after November 28, 1990, regulations shall be issued to implement the provisions of this Act.".

[103] Formerly at 7 U.S.C. 1736d. Sec. 219 of Public Law 104–127 (110 Stat. 957) repealed sec. 410, which had required that a number of programs under this Act be independently evaluated and reported on by the U.S. Comptroller General.

[104] 7 U.S.C. 1736e. Title II, chapter VIII of Public Law 102–27 (105 Stat. 147; 7 U.S.C. 1736e note) provided the following:

"Title I of Public Law 480 program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill, all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.".

Sec. 4(d) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) (redesignated as sec. 4(b) by Executive Order 13044 of April 18, 1997), delegated to the Secretary of Agriculture, in consultation with the Food Assistance Policy Council and the Department of the Treasury, the functions conferred on the President in sec. 411.

[105] Sec. 326 of Public Law 102–237 (105 Stat. 1857) struck out "this title" and inserted in lieu thereof "title I".

(C) a structural adjustment facility, enhanced structural adjustment facility, or similar supervised arrangement with the International Monetary Fund is in effect with respect to that country; or

(D) even though such an agreement, program, facility, or arrangement is not in effect, the country is pursuing national economic policy reforms that would promote democratic, market-oriented, and long term economic development.

(b) REQUEST FOR DEBT RELIEF BY PRESIDENT.—The President may provide debt relief under subsection (a) only if a notification is submitted to Congress at least 10 days prior to providing the debt relief.[106] Such a notification shall—

(1) specify the amount of official debt the President proposes to liquidate; and

(2) identify the countries for which debt relief is proposed and the basis for their eligibility for such relief.

(c) APPROPRIATIONS ACTION REQUIRED.—The aggregate amount of principal and interest waived under this section may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this Act.

(d) LIMITATION ON NEW CREDIT ASSISTANCE.—If the authority of this section is used to waive payments otherwise required to be made by a country pursuant to this Act, the President may not provide any new credit assistance for that country under this Act during the 2-year period beginning on the date such waiver authority is exercised, unless the President provides to the Congress, before the assistance is provided, a written justification for the provision of such new credit assistance.

(e) APPLICABILITY.—The authority of this section applies with respect to credit sales agreements entered into before November 28, 1990.[107]

SEC. 412.[108] AUTHORIZATION OF APPROPRIATIONS.

(a) REIMBURSEMENT.—There are authorized to be appropriated such sums as may be necessary to carry out—

(1) the concessional credit sales program established under title I;

(2) the emergency and private assistance program under title II; and

(3) the grant program established under title III,

including such amounts as may be required to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs under this Act for the actual costs incurred or to be incurred by such Corporation in carrying out such programs.

(b)[109] TRANSFER OF FUNDS.—

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[106] Sec. 336 of Public Law 102–237 (105 Stat. 1859) inserted "at least 10 days prior to providing the debt relief".

[107] Sec. 322 of Public Law 102–237 (105 Stat. 1857) struck out "the date of enactment of this Act" and inserted in lieu thereof "November 28, 1990".

[108] 7 U.S.C. 1736f.

[109] Sec. 220 of Public Law 104–127 (110 Stat. 958) struck out subsecs. (b) and (c), relating to amount limitations and transfer of funds, inserted a new subsec. (b), and redesignated subsecs. (d) and (e) as subsecs. (c) and (d), respectively.

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the President may direct that up to 15 percent of the funds available for any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

(2) TITLE III FUNDS.—The President may direct that up to 50 percent of the funds available for any fiscal year for carrying out title III be used to carry out title II.

(c)[109] BUDGET.—In presenting the Budget of the United States, the President shall classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(d)[109] VALUE OF COMMODITIES.—Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all expenses incurred under this Act, commodities from the inventory of the Commodity Credit Corporation that were acquired under title I of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall be valued at a price not greater than the export market price for such commodities, as determined by the Secretary, as of the time such commodity is made available under this Act.

SEC. 413.[110] COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

To the maximum extent practicable, assistance for a foreign country under title III[111] shall be coordinated and integrated with United States development assistance objectives and programs for that country and with the overall development strategy of that country. Special emphasis should be placed on, and funds devoted to, activities that will increase the nutritional impact of programs of assistance under title III,[111] and child survival programs and projects, in least developed countries by improving the design and implementation of such programs and projects.

SEC. 414.[112] ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.

(a) SUBSTANTIAL INJURY.—Local currencies that are made available for use under this Act may not be used to finance the production for export of agricultural commodities (or products thereof) that would compete in the world market with similar agricultural commodities (or products thereof) produced in the United States, if such competition would cause substantial injury to the United States producers, as determined by the President.

(b) EXCEPTION FOR NARCOTICS CONTROL.—Notwithstanding subsection (a), the President may provide assistance under this Act, including assistance through the use of local currencies generated by the sale of commodities under such Act, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 481(e)(2)[113] of the

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[110] 7 U.S.C. 1736g.

[111] Sec. 221 of Public Law 104–127 (110 Stat. 958) struck out "this Act" and inserted in lieu thereof "title III".

[112] 7 U.S.C. 1736g–1.

[113] Formerly read "section 481(i)(2)". Sec. 6(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) provided that "Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) or 481(i) of that Act shall be deemed to be a reference to section 489 or section 481(e)".

Foreign Assistance Act of 1961), for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.

SEC. 415.[114] MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

(a) IN GENERAL.—Subject to the availability of practical technology and to cost effectiveness, not later than September 30, 1997, the Secretary, in consultation with the Administrator, shall establish a micronutrient fortification pilot program under this Act. The purpose of the program shall be to—

(1) assist developing countries in correcting micronutrient dietary deficiencies among segments of the populations of the countries; and

(2) encourage the development of technologies for the fortification of whole grains and other commodities that are readily transferable to developing countries.

(b) SELECTION OF PARTICIPATING COUNTRIES.—From among the countries eligible for assistance under this Act, the Secretary may select not more than 5 developing countries to participate in the pilot program.

(c) FORTIFICATION.—Under the pilot program, whole grains and other commodities made available to a developing country selected to participate in the pilot program may be fortified with 1 or more micronutrients (including vitamin A, iron, and iodine) with respect to which a substantial portion of the population in the country is deficient. The commodity may be fortified in the United States or in the developing country.

(d) TERMINATION OF AUTHORITY.—The authority to carry out the pilot program established under this section shall terminate on September 30, 2002.

SEC. 416.[115] USE OF CERTAIN LOCAL CURRENCY.

Local currency payments received by the United States pursuant to agreements entered into under title I (as in effect on November 27, 1990) may be utilized by the Secretary in accordance with section 108 (as in effect on November 27, 1990).

TITLE V—FARMER-TO-FARMER PROGRAM

SEC. 501.[116] FARMER-TO-FARMER PROGRAM.

(a) IN GENERAL.—To further assist developing countries, middle-income countries, and emerging markets[117] to increase farm production and farmer incomes, the President may, notwithstanding any other provision of law—

(1) establish and administer a program of farmer-to-farmer assistance between the United States and such countries to assist in increasing food production and distribution and improving the effectiveness of the farming and marketing operations of farmers;

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[114] 7 U.S.C. 1736g–2. Added by sec. 222 of Public Law 104–127 (110 Stat. 958).

[115] 7 U.S.C. 1736g–3. Added by sec. 223 of Public Law 104–127 (110 Stat. 958).

[116] 7 U.S.C. 1737. Sec. 4(f) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) (redesignated as sec. 4(d) by Executive Order 13044 of April 18, 1997), delegated to the Administrator of the Agency for International Development the functions conferred on the President in title V.

[117] Sec. 277(c)(1)(A) of Public Law 104–127 (110 Stat. 979) struck out "emerging democracies" and inserted in lieu thereof "emerging markets".

(2) utilize United States farmers, agriculturalists, land grant universities, private agribusinesses, and nonprofit farm organizations to work in conjunction with farmers and farm organizations in such countries, on a voluntary basis, to facilitate the improvement of farm and agribusiness operations and agricultural systems in such countries, including animal care and health, field crop cultivation, fruit and vegetable growing, livestock operations, food processing and packaging, farm credit, marketing, inputs, agricultural extension, and the strengthening of cooperatives and other farmer groups;

(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on a people-to-people basis, to such countries while enhancing the democratic process by supporting private and public[118] agriculturally related organizations that request and support technical assistance activities through cash and in-kind services;

(4) to the extent practicable, enter into contracts or other cooperative agreements with or make grants to private voluntary organizations, cooperatives, land grant universities, private agribusiness, or nonprofit farm organizations to carry out this section (except that any such contract or other agreement may obligate the United States to make outlays only to the extent that the budget authority for such outlays is available pursuant to subsection (c) or has otherwise been provided in advance in appropriation Acts);

(5) coordinate programs established under this section with other foreign assistance activities carried out by the United States; and

(6)[119] to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities, within the country where the program is being conducted.

(b) DEFINITIONS.—The following definitions apply for purposes of this section:

(1)[120] EMERGING MARKET.—The term "emerging market" means any country that the Secretary determines—

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[118] Sec. 301 of Public Law 102–237 (105 Stat. 1855) struck out a comma after "public".

[119] Sec. 224(1) of Public Law 104–127 (110 Stat. 959) struck out and restated para. (6), which formerly read as follows:

"(6) to the extent practicable, augment the funds available for programs established under this section through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities.".

[120] Sec. 277(c)(1)(B) of Public Law 104–127 (110 Stat. 979) struck out para. (1) and inserted a new para. (1). The struck out text read as follows:

"(1) EMERGING DEMOCRACY.—The term 'emerging democracy' means a country that is taking steps toward—

"(A) political pluralism, based on progress toward free and fair elections and a multiparty political system;

"(B) economic reform, based on progress toward a market-oriented economy;

"(C) respect for internationally recognized human rights; and

"(D) a willingness to build a friendly relationship with the United States.".

(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

(2) MIDDLE INCOME COUNTRY.—The term "middle income country" means a country that has developed economically to the point where it does not receive bilateral development assistance from the United States.

(c) MINIMUM FUNDING.—Notwithstanding any other provision of law, not less than 0.4[121] percent of the amounts made available for each of the fiscal years 1996 through 2002[122] to carry out this Act, in addition to any funds that may be specifically appropriated to carry out this section, shall be used to carry out programs under this section, with not less than 0.2[123] percent to be used for programs in developing countries.

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601.[124] ESTABLISHMENT OF THE FACILITY.

There is established in the Department of the Treasury an entity to be known as the "Enterprise for the Americas Facility" (hereafter referred to in this title as the "Facility").

SEC. 602.[125] PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. The Facility will support such objectives through the administration of debt reduction operations relating to those countries that meet investment reform and other policy conditions provided for in this title.

SEC. 603.[126] ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country shall—

(1) be a Latin American or Caribbean country;

(2) have in effect or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress towards the establishment of—

(A) an International Monetary Fund (hereafter referred to in this title as the "IMF") standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural ad-

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[121] Sec. 224(2)(A) of Public Law 104–127 (110 Stat. 959) struck out "0.2" and inserted in lieu thereof "0.4".

[122] Sec. 224(2)(B) of Public Law 104–127 (110 Stat. 959) struck out "1991 through 1995" and inserted in lieu thereof "1996 through 2002".

[123] Sec. 224(2)(C) of Public Law 104–127 (110 Stat. 959) struck out "0.1" and inserted in lieu thereof "0.2".

[124] 7 U.S.C. 1738.

[125] 7 U.S.C. 1738a.

[126] 7 U.S.C. 1738b.

justment facility, or in exceptional circumstances, an IMF-monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development (hereafter referred to in this title as the "World Bank") or the International Development Association (hereafter referred to in this title as the "IDA");

(3) have placed into effect major investment reforms in conjunction with an Inter-American[127] Development Bank (hereafter referred to as the "IDB") loan or otherwise be implementing, or making significant progress towards an open investment regime; and

(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATION.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

SEC. 604.[128] REDUCTION OF CERTAIN DEBT.

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States or any agency of the United States, and outstanding as of January 1, 1990, as a result of any credits extended under title I to a country eligible for benefits from the Facility.

(2) AVAILABILITY[129] OF APPROPRIATIONS.—The authorities under this section may be exercised only to the extent provided for in advance in appropriation Acts.

(b) LIMITATION.—A debt reduction authorized under subsection (a) shall be accomplished, at the direction of the Facility, through the exchange of a new obligation under this title for obligations of the type referred to in subsection (a) outstanding as of January 1, 1990.

(c) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under subsection (b) with an eligible country to exchange a new obligation for outstanding obligations. At the direction of the Facility, the old obligations that are the subject of the agreement may be canceled and a new debt obligation may be established for the country relating to the agreement. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect a debt reduction under this section.

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[127] Sec. 302 of Public Law 102–237 (105 Stat. 1855) added the hyphen to "Inter-American".

[128] 7 U.S.C. 1738c. Title II, chapter VIII of Public Law 102–27 (105 Stat. 147, 7 U.S.C. 1736e note) provided the following:

"Title I of Public Law 480 program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill, all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.".

[129] Sec. 303 of Public Law 102–237 (105 Stat. 1855) corrected the spelling of "Availability".

SEC. 605.[130] REPAYMENT OF PRINCIPAL.

(a) CURRENCY OF PAYMENT.—The principal amount owed under each new obligation issued under section 604 shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments on new obligations issued under section 604 shall be deposited in Commodity Credit Corporation accounts.

SEC. 606.[131] INTEREST OF NEW OBLIGATIONS.

(a) RATE OF INTEREST.—New obligations issued to an eligible country under section 604 shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT, DEPOSITS.—

(1) UNITED STATES DOLLARS.—An eligible country to which a new obligation has been issued under section 604 that has not entered into an agreement under section 607, shall be required to pay interest on such obligation in United States dollars which shall be deposited in Commodity Credit Corporation accounts.

(2) LOCAL CURRENCY.—If an eligible country to which a new obligation has been issued under section 604 has entered into an agreement under section 607, interest under such obligation may be paid in the local currency of the eligible country and deposited into an Environmental Fund as provided for in section 608. Such interest shall be the property of the eligible country until such time as it is disbursed under section 608. Such local currencies shall be used for the purposes specified in the agreement entered into under section 607.

(c) INTEREST PREVIOUSLY PAID.—If an eligible country to which a new obligation has been issued under section 604 enters into an agreement under section 607 subsequent to the date on which interest first becomes due on such new obligation, any interest paid on such new obligation prior to such agreement being entered into shall not be redeposited into the Fund established for the eligible country under section 608(a) but shall be deposited into Commodity Credit Corporation accounts.[132]

SEC. 607.[133] ENVIRONMENTAL FRAMEWORK AGREEMENTS.

(a) AUTHORITY.—The President is authorized to enter into an environmental framework agreement with each country eligible for benefits from the Facility concerning the operation and use of an Enterprise for the Americas Environmental Fund (hereafter referred to in this title as the "Environmental Fund")[134] established under section 608 for that country. The President shall consult with the Board established under section 610 when entering into such agreements.

(b) REQUIREMENTS.—An environmental framework agreement entered into under this section shall—

(1) require the eligible country to establish an Environmental Fund;

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[130] 7 U.S.C. 1738d.
[131] 7 U.S.C. 1738e.
[132] Sec. 304 of Public Law 102–237 (105 Stat. 1855) inserted "accounts" after "Corporation".
[133] 7 U.S.C. 1738f.
[134] In a technical correction, sec. 305 of Public Law 102–237 (105 Stat. 1855) moved the close quotation mark.

(2) require the eligible country to make interest payments under section 608(a) into the Environmental Fund;

(3) require the eligible country to make prompt disbursements from the Environmental Fund to the body described in subsection (c);

(4) where appropriate, seek to maintain the value of the local currency resources deposited into the appropriate Environmental Fund in terms of United States dollars;

(5) specify, in accordance with section 612, the purposes for which the Environmental Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) ADMINISTERING BODY.—Funds disbursed from the Environmental Fund in an eligible country shall be administered by a body constituted under the laws of the country. Such body shall—

(1) be composed of—

(A) one or more representatives appointed by the President;

(B) one or more representatives appointed by the eligible country; and

(C) representatives from a broad range of environmental and local community development nongovernmental organizations of the host country;

the majority of which shall be local representatives from nongovernmental organizations, and scientific or academic bodies;

(2) receive proposals for grant assistance from local organizations, and make grants to such organizations in accordance with the priorities agreed upon in the framework agreement and consistent with the overall purposes of section 612;

(3) be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

(4) be subject to fiscal audits by an independent auditor on an annual basis;

(5) present an annual program for review by the Board established under section 610 each year;

(6) present an annual report on the activities undertaken during the previous year to the Chairman of the Board established under section 610, and the government of the eligible country each year; and

(7) have any grant over $100,000 be subject to veto by the United States and the government of the eligible country.

SEC. 608.[135] ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUNDS.

(a) ESTABLISHMENT.—An eligible country shall, under the terms of an environmental framework agreement entered into under section 607, establish an Environmental Fund to receive payments in local currency pursuant to section 607(b)(1).

(b) INVESTMENT.—Amounts deposited into an Environmental Fund shall be invested until disbursed. Notwithstanding any other provision of law, any return on such investment may be retained by the Environmental Fund and need not be deposited to the ac-

[135] 7 U.S.C. 1738g.

count of the Commodity Credit Corporation and may be retained without further appropriation by Congress.

SEC. 609.[136] DISBURSEMENT OF ENVIRONMENTAL FUNDS.

Funds in an Environmental Fund shall be disbursed only pursuant to a framework agreement entered into pursuant to section 607.

SEC. 610.[137] ENTERPRISE [138] FOR THE AMERICAS BOARD.

(a) ESTABLISHMENT.—There is established a board to be known as the "Enterprise [138] for the Americas Board" (hereafter referred to in this title as the "Board").

(b) MEMBERSHIP AND CHAIRPERSON.—

(1) MEMBERSHIP.—The Board shall be composed of—

(A) six [139] representatives from the United States Government, at least one of whom shall be a representative of the Department of Agriculture; [139] and

(B) five [140] representatives from private nongovernmental environmental, child survival and child development,[141] community development, scientific, and academic organizations with experience and expertise in Latin America and the Caribbean, at least one of whom shall be a representative from a child survival and child development organization; [142]

to be appointed by the President.

(2) CHAIRPERSON.—The Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under paragraph (1)(A).

(c) RESPONSIBILITIES.—The Board shall—

(1) advise the President on the negotiations for the environmental framework agreements described in subsections (a) and (b) of section 607;

(2) ensure, in consultation with the government of the appropriate eligible country, with nongovernmental organizations of such eligible country, and if appropriate, of the region, and with environmental, scientific, and academic leaders of such eligible country and, as appropriate, of the region, that a suitable body referred to in section 607(c) is identified; and

(3) review the programs, operations, and fiscal audits of the bodies referred to in section 607(c).

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[136] 7 U.S.C. 1738h.

[137] 7 U.S.C. 1738i.

[138] Sec. 603 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669) struck out "ENVIRONMENT" and inserted in lieu thereof "ENTERPRISE" in the catchline; and struck out "Environment" in lieu of "Enterprise" in subsec. (a).

[139] Sec. 339(1) of Public Law 102–237 (105 Stat. 1861) struck out "five" and inserted in lieu thereof "six", and added after "Government" the text ", at least one of whom shall be a representative of the Department of Agriculture".

[140] Sec. 339(2) of Public Law 102–237 (105 Stat. 1861) struck out "four" and inserted in lieu thereof "five".

[141] Sec. 603(3)(A) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669) inserted "child survival and child development," after "environmental,".

[142] Sec. 603(3)(B) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669) inserted ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

SEC. 611.[143] OVERSIGHT.

The President may designate appropriate United States agencies to review the implementation of programs under this title and the fiscal audits relating to such programs. Such oversight shall not constitute active management of an Environmental Fund.

SEC. 612.[144] ELIGIBLE ACTIVITIES AND GRANTEES.

(a) ELIGIBLE ENTITIES.—Activities eligible to receive assistance through the framework agreements entered into under section 607, shall include—

(1) activities of the type described in the Global Environmental Protection Assistance Act of 1989 (22 U.S.C. 2281 et seq.);[145]

(2) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(3) local community initiatives that promote conservation and sustainable use of the environment.

(b) REGULATION.—All activities of the type referred to in subsection (a) shall, where appropriate, include initiatives that link conservation of natural resources with local community development.

(c) SETTING OF PRIORITIES.—Appropriate activities and priorities relating to the use of an Environmental Fund shall be set by local nongovernmental organizations within the appropriate eligible country.

(d) GRANTS.—Grants may be made by the body referred to in section 607(c) from the Environmental Fund for environmental purposes to—

(1) host country nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations;

(2) other appropriate local or regional entities; or

(3) in exceptional circumstances, the government of the eligible country.

(e) PRIORITY.—In providing assistance from an Environmental Fund, the body established under section 607(c) within the eligible country shall give priority to projects that are run by nongovernmental organizations and other private entities, and that involve local communities in their planning and execution.

SEC. 613.[146] ENCOURAGING MULTILATERAL DEBT DONATIONS.

(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of an eligible country to provide debt reduction to such eligible country.

(b) ENCOURAGING DONATIONS FROM OTHER SOURCES.—The President shall make every effort to insure that programs established through Environmental Funds are able to receive donations from private and public entities, and private creditors of the eligible country.

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[143] 7 U.S.C. 1738j.

[144] 7 U.S.C. 1738k.

[145] Sec. 306 of Public Law 102–237 (105 Stat. 1856) corrected a typographical error here by striking "462), and—", and inserted in lieu thereof "2281 et seq.);".

[146] 7 U.S.C. 1738*l*.

SEC. 614.[147] ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later[148] than December 31 of each fiscal year, the President shall prepare and submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an annual report concerning the operation of the Facility for the prior fiscal year. This report shall include—[149]

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Enviromental[150] Framework Agreement entered into under this title;

(3) a report on what Environmental Funds have been established under this title and on the operations of such Funds; and

(4) a description of any grants that have been extended by administering bodies pursuant to an Enviromental[150] Framework Agreement under this title.

(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

SEC. 615.[151] CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.

SEC. 616.[152] SALE OF QUALIFIED DEBT TO ELIGIBLE COUNTRIES.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The President may sell to an eligible country up to 40 percent of such country's qualified debt, only if an amount of the local currency of such country (other than the price paid for the debt) equal to—

(A) not less than 40 percent of the price paid for such debt by such eligible country, or

(B) the difference between the price paid for such debt and the face value of such debt;

whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 612.

(2) ENVIRONMENTAL FUNDS.—For purposes of this section, the term "Environmental Fund" means an Environmental Fund established under section 608. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.

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[147] 7 U.S.C. 1738m.

[148] Sec. 330 of Public Law 102–237 (105 Stat. 1858) struck out "Not later" and inserted in lieu thereof "(a) IN GENERAL.—Not later", and added subsec. (b).

[149] Sec. 3 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3512) added from "This report shall include—" through par. (4) of subsec. (a).

[150] As enrolled. Should read "Environmental".

[151] 7 U.S.C. 1738n. Added by sec. 331 of Public Law 102–237 (105 Stat. 1858).

[152] 7 U.S.C. 1738o. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

(3) ESTABLISHMENT AND OPERATION OF ENVIRONMENTAL FUNDS.—The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.

(c) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(e) IMPLEMENTATION BY THE FACILITY.—A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Corporation to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.

(f) DEPOSIT OF PROCEEDS.—The proceeds from a sale of qualified debt under this section shall be deposited in the account or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.

(g) DEBTOR CONSULTATION.—Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.

SEC. 617.[153] SALE, REDUCTION, OR CANCELLATION OF QUALIFIED DEBT TO FACILITATE CERTAIN DEBT SWAPS.

(a) AUTHORITY TO SELL, REDUCE, OR CANCEL QUALIFIED DEBT.—For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—

(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1)) any qualified debt of an eligible country; or

(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2)).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.

(c) ELIGIBLE PURCHASERS AND ELIGIBLE PAYORS.—

(1) SALES OF DEBT.—Qualified debt may be sold pursuant to subsection (a)(1) only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.

(2) REDUCTION OR CANCELLATION OF DEBT.—Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) only if the payor presents plans satisfactory to the President for

[153] 7 U.S.C. 1738p. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

using such reduction or cancellation for the purpose of facilitating eligible debt swaps.

(d) DEBTOR CONSULTATION AND RIGHT OF FIRST REFUSAL.—

(1) CONSULTATION.—Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.

(2) RIGHT OF FIRST REFUSAL.—The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to purchase that debt pursuant to section 616 and has not accepted that offer.

(e) LIMITATION.—In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 616.

(f) ADMINISTRATION.—The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c), and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.

(g) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(h) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.

(i) ELIGIBLE DEBT SWAPS.—As used in this section, the term "eligible debt swap" means a debt-for-development swap or debt-for-nature swap.

SEC. 618.[154] NOTIFICATION TO CONGRESSIONAL COMMITTEES.

(a) NOTICE OF NEGOTIATIONS.—The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this title.

(b) TRANSMITTAL OF TEXT OF AGREEMENTS.—The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this title no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.

(c) ANNUAL REPORT.—The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief

[154] 7 U.S.C. 1738q. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

agreements entered into force under this title during the preceding fiscal year.

(d) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term "designated congressional committees" means the Committee on Agriculture and the Committee on Foreign Affairs [155] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 619.[156] DEFINITION OF QUALIFIED DEBT.

As used in sections 616, 617, and 618, the term "qualified debt" means any obligation, or portion of such obligation, of an eligible country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966—

(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and

(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.

Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 616 or a debt sale, reduction, or cancellation pursuant to section 617 (as the case may be).

NOTE.—Section 1(5) of Public Law 85–128 [S. 1314], 71 Stat. 345, 7 U.S.C. 1704a, approved August 13, 1957, makes the following provision for reporting to Congress:

"(5) Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and the House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof.".

NOTE.—Section 3 of Public Law 84–962 [S. 3903], 70 Stat. 988, 7 U.S.C. 1701 note, approved August 3, 1956, provides:

"Sales of fresh fruit and the products thereof under title I of the Act shall be exempt from the requirements of the cargo preference laws (Public Resolution 17, Seventy-third Congress (15 U.S.C. 616a) and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241 (b))).".

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[155] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[156] 7 U.S.C. 1738r. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

NOTE.—Section 709 of Public Law 89–321 [H.R. 9811] (Food and Agriculture Act of 1965), 79 Stat. 1212, 7 U.S.C. 1446a–1, approved November 3, 1965, provides:

"The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action,[157] and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.".

NOTE.—Section 407 of the Agricultural Act of 1949, as amended, and found at 7 U.S.C. 1427, provides the minimum prices the Commodity Credit Corporation may sell farm commodities owned or controlled by it.

[157] The words "foreign distribution" which appeared at this point were struck out by sec. 3(B) of the Food for Peace Act of 1966, effective January 1, 1967. See also sec. 416 of the Agricultural Act of 1949 which provides for, among other things, the donation of dairy products through foreign governments and public and nonprofit private humanitarian organizations.

b. Federal Agriculture Improvement and Reform Act of 1996

Partial text of Public Law 104–127 [H.R. 2854], 110 Stat. 888, approved April 4, 1996

NOTE.—Amendments enacted in Public Law 104–127 to other Acts relating to agriculture have been incorporated into those Acts.

AN ACT To modify the operation of certain agricultural programs.

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

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Agriculture Improvement and Reform Act of 1996".

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TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

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Subtitle B—Amendments to Agricultural Trade Act of 1978

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Subtitle C—Miscellaneous Agricultural Trade Provisions

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SEC. 282. SENSE OF CONGRESS CONCERNING MULTILATERAL DISCIPLINES ON CREDIT GUARANTEES.

It is the sense of Congress that—

(1) in negotiations to establish multilateral disciplines on agricultural export credits and credit guarantees, the United States should not agree to any arrangement that is incompatible with the provisions of United States law that authorize agricultural export credits and credit guarantees;

(2) in the negotiations (which are held under the auspices of the Organization for Economic Cooperation and Development), the United States should not reach any agreement that fails to impose disciplines on the practices of foreign government trad-

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[1] 7 U.S.C. 7201 note.

ing entities such as the Australian Wheat Board, the Canadian Wheat Board, the New Zealand Dairy Board, and the Australian Dairy Board; and

(3) the disciplines should include greater openness in the operations of the entities as long as the entities are subsidized by the foreign government or have monopolies for exports of a commodity that are sanctioned by the foreign government.

SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.

(a) IN GENERAL.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.

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c. Enterprise for the Americas Initiative Act of 1992

Partial text of Public Law 102–532 [H.R. 4059], 106 Stat. 3509, approved October 27, 1992

NOTE.—Amendments to title VI of the Agricultural Trade Development and Assistance Act of 1954 enacted in Public Law 102–532 have been incorporated into that Act.

AN ACT To amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Enterprise for the Americas Initiative Act of 1992".

SEC. 2.[2] GOOD NEIGHBOR ENVIRONMENTAL ACT OF 1992. * * *

SEC. 3.[3] ANNUAL REPORTS TO THE CONGRESS. * * *

SEC. 4.[4] CENTER FOR NORTH AMERICAN STUDIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States through cooperative study, training, and research.

(b) LOCATION.—The Institute shall be located at an institution of higher education or at a consortium of such institutions.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.

SEC. 5. STUDY OF THE EFFECT OF FREE TRADE WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES ON THE UNITED STATES ECONOMY.

The President shall transmit to the Congress, not later than 8 months after the date of the enactment of this Act, a study describing—

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[1] 7 U.S.C. 1691 note.

[2] Sec. 2 added new secs. 616–619 to title VI of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738).

[3] Sec. 3 amended sec. 614(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm(a)).

[4] 7 U.S.C. 3294.

(1) in summary fashion, the likely effect on major United States industries and other sectors, including agriculture, that could be most affected by a hemispherical free trade zone with Latin American and Caribbean countries;

(2) the regions in the United States that would be most affected by a hemispherical free trade zone with Latin American and Caribbean countries and, in summary fashion, the nature of these effects;

(3) the extent to which horticultural exports from Latin American and Caribbean countries complement or compete with United States production;

(4) a country-by-country overview of recent economic developments in Latin American and Caribbean countries significantly influencing United States relations with such countries, including present trade and investment patterns in these regions;

(5) the likely effect of a hemispherical free trade zone with Latin American and Caribbean countries on the United States economy and its multilateral interrelationship with other countries in the region, including Canada and Mexico;

(6) the extent to which manufactured products exported from Latin American and Caribbean countries complement or compete with United States production; and

(7) the likely effects of a hemispherical free trade zone with Latin American and Caribbean countries on existing environmental, agricultural, labor, and consumer protection laws and practices within the United States and within the other countries included in the zone.

SEC. 6.[5] THE GOOD NEIGHBOR ENVIRONMENTAL BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the "Board").

(b) PURPOSE.—The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.

(c) MEMBERSHIP.—The Board shall be composed of—

(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;

(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and

(3) representatives from private organizations, including community development, academic, health, environmental, and other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.

(d) ANNUAL REPORTS TO THE PRESIDENT AND CONGRESS.—

(1) IN GENERAL.—The Board shall submit to the President and the Congress of the United States an annual report on—

[5] 7 U.S.C. 5404.

(A) the environmental and infrastructure projects referred to in subsection (a) that have been implemented, and

(B) the need for the implementation of additional environmental and infrastructure projects.

(2) TRANSMISSION OF COPIES TO BOARD MEMBERS.—The Board shall—

(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and

(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views with respect to the recommendations of the Board for inclusion in such report.

d. Food, Agriculture, Conservation, and Trade Act of 1990

Partial text of Public Law 101–624 [S. 2830], 104 Stat. 3359, approved November 28, 1990; amended by Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

NOTE.—The Food, Agriculture, Conservation, and Trade Act of 1990 amended several other Public Laws; these amendments are incorporated into the texts of these Acts at the appropriate locations. Title XV, the Agricultural Development and Trade Act of 1990, may be found at page 976; Title XXIV, the Global Climate Change Prevention Act of 1990, may be found in *Legislation on Foreign Relations Through 1997*, vol. IV, sec. L. The one freestanding section of subtitle A of title XV, the Mickey Leland Food for Peace Act, was repealed in 1996.

AN ACT To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

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

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act of 1990".

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TITLE IX—SUGAR

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SEC. 903.[2] REPORTS ON QUOTA ALLOCATIONS TO COUNTRIES IMPORTING SUGAR. * * *

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TITLE XII—STATE AND PRIVATE FORESTRY

SEC. 1201.[3] SHORT TITLE.

This title may be cited as the "Forest Stewardship Act of 1990".

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[1] 7 U.S.C. 1421 note.
[2] Sec. 903 amended sec. 902(c) of the Food Security Act of 1985 (7 U.S.C. 1446 note).
[3] 16 U.S.C. 2101 note.

SUBTITLE B—RESEARCH AND EDUCATION

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CHAPTER 2—SPECIALIZED RESEARCH

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SEC. 1247.[4] INTERNATIONAL FOREST PRODUCTS TRADE INSTITUTE.

(a) ESTABLISHMENT.—The Secretary of Agriculture may establish an International Forest Products Trade Institute (hereafter in this section referred to[5] as the "Institute").

(b) MISSION.—The mission of the Institute will be to increase the competitive position of the forest industries of the northeastern United States as major producers of international forest products in order to increase domestic employment and stimulate rural development, and to provide a knowledgeable, objective analysis of global forest resource problems.

(c) FUNCTIONS.—The Institute shall—

(1) emphasize the application of existing knowledge to the manufacturing and international marketing of forest products as well as conduct new research related to the competitiveness of the northeastern forest products industry;

(2) study and evaluate domestic and international forest, forest sector, agroforestry, development, economic, and trade policies;

(3) design, analyze and test technologically appropriate manufacturing, processing and marketing systems which are supportive of and consistent with forest policy and management strategies formulated by the Institute and which enhance opportunities for markets in forest products; and

(4) formulate and test management strategies for—

(A) United States forests, and

(B) manufacturing facilities that promote ecologically sustainable use, and long-term management, of international forests.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

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TITLE XIII—FRUITS, VEGETABLES, AND MARKETING

SUBTITLE A—FRUITS AND VEGETABLES

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SEC. 1308. MARKETING ORDERS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e–1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) striking "(a) Notwithstanding any other provision of law," in the first sentence, and inserting in its place "(a) Subject to

[4] 16 U.S.C. 2112 note.

[5] Sec. 1018(c) of Public Law 102–237 (105 Stat. 1905) struck out "in this section" here.

the provisions of subsections (c) and (d) and notwithstanding any other provision of law,";

(2) adding at the end thereof the following new subsections:

"(c) Prior to any import prohibition or regulation under this section being made effective with respect to any commodity—

"(1) the Secretary of Agriculture shall notify the United States Trade Representative of such import prohibition or regulation; and

"(2) the United States Trade Representative shall advise the Secretary of Agriculture, within 60 days of the notification under paragraph (1), to ensure that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports is not inconsistent with United States international obligations under any trade agreement, including the General Agreement on Tariffs and Trade.

"(d) The Secretary may proceed with the proposed prohibition or regulation if the Secretary receives the advice and concurrence of the United States Trade Representative within 60 days of the notification under subsection (c)(1).".

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TITLE XV—AGRICULTURAL TRADE

SEC. 1501.[6] SHORT TITLE.

This title may be cited as the "Agricultural Development and Trade Act of 1990".

SUBTITLE A—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

SEC. 1511.[7] SHORT TITLE.

This subtitle may be cited as the "Mickey Leland Food for Peace Act".

SEC. 1512.[8] AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended to read as follows:

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TITLE XVI—RESEARCH

SUBTITLE A—EXTENSIONS AND CHANGES TO EXISTING PROGRAMS

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[6] 7 U.S.C. 1691 note. For text of the freestanding sections of the Agricultural Development and Trade Act of 1990, see page 976.

[7] 7 U.S.C. 1691 note. The one freestanding section of the Mickey Leland Food for Peace Act, sec. 1517—Debt-for-Health-and Protection Swap, was repealed by sec. 265 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 974).

[8] Sec. 1512 amended the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

SEC. 1613. INTERNATIONAL AGRICULTURAL SCIENCE, EDUCATION, AND DEVELOPMENT AND INTERNATIONAL TRADE DEVELOPMENT CENTERS.

(a) SCIENCE, EDUCATION, AND DEVELOPMENT.—Subsection (a) of section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended to read as follows:

"(a) AUTHORITY OF THE SECRETARY.—To carry out the policy of this subtitle, the Secretary (in consultation with the Agency for International Development and subject to such coordination with other Federal officials, Departments, and agencies as the President may direct) may—

"(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research and extension activities by—

"(A) exchanging research materials and results with the institutions or persons; and

"(B) conducting with the institutions or persons joint or coordinated research and extension on problems of significance to food and agriculture in the United States;

"(2) enter into cooperative arrangements with Departments and Ministries of Agriculture in other nations to conduct research, extension, and education activities in support of the development of a viable and sustainable global agricultural system, including efforts to establish a global system for plant genetic resources conservation;

"(3) enter into agreements with land-grant colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, World Bank, regional development banks, the International Agricultural Research Center), or other organizations, institutions or individuals with comparable goals, to promote and support the development of a viable and sustainable global agricultural system;

"(4) further develop within the Department highly qualified and experienced scientists and experts who specialize in international programs, to be available to carry out the activities described in this section;

"(5) work with transitional and more advanced countries in food, agricultural, and related research, development, and extension (including providing technical assistance, training, and advice to persons from the countries engaged in the activities and the stationing of scientists and other specialists at national and international institutions in the countries);

"(6) expand collaboration and coordination with the Agency for International Development regarding food and agricultural research, extension, and education programs in developing countries;

"(7) assist colleges and universities in strengthening their capabilities for food, agricultural, and related research and extension that is relevant to agricultural development activities in other countries through—

"(A) the provision of support to State universities and land-grant colleges and universities to do collaborative research with other countries on issues relevant to United States agricultural competitiveness;

"(B) the provision of support for cooperative extension education in global agriculture and to promote the application of new technology developed in foreign countries to United States agriculture; and

"(C) the provision of support for the internationalization of resident instruction programs of the universities and colleges described in subparagraph (A); and

"(8) continue,[9] in cooperation with the Secretary of State, a program, coordinated[9] through the International Arid Land Consortium, to enhance collaboration and cooperation between institutions possessing research capabilities applied to the development, management, and reclamation of arid lands.".

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SUBTITLE H—MISCELLANEOUS RESEARCH PROVISIONS

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SEC. 1678.[10] * * * [Repealed—1996]

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TITLE XXIV—GLOBAL CLIMATE CHANGE[11]

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[9] Sec. 816 of Public Law 104–127 (110 Stat. 1167) struck out "establish" and inserted in lieu thereof "continue", and struck out "to be" before "coordinated" in sec. 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

[10] Formerly at 7 U.S.C. 5931. Sec. 865 of Public Law 104–127 (110 Stat. 1174) repealed sec. 1678, which had authorized the Secretary of Agriculture to provide at least two special grants to land-grant colleges and universities to conduct a study evaluating the trade impacts of technical barriers, quality factors, and end-use characteristics in agricultural trade to determine whether such factors are consistent between commodities.

[11] Title XXIV, the "Global Climate Change Prevention Act of 1990", may be found in *Legislation on Foreign Relations Through 1997*, vol. IV, sec. L.

e. Agricultural Development and Trade Act of 1990

Title XV of Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359 at 3632, approved November 28, 1990; amended by Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103–182 [North American Free Trade Agreement Implementation Act; H.R. 3450], 107 Stat. 2057, approved December 8, 1993; Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

NOTE.—The Food, Agriculture, Conservation, and Trade Act of 1990 amended several other Public Laws; these amendments are incorporated into the texts of these Acts at the appropriate locations. Title XV appears here as the Agricultural Development and Trade Act of 1990. Freestanding sections of Public Law 101–624 may be found at page 971; title XXIV, the Global Climate Change Prevention Act of 1990, may be found in *Legislation on Foreign Relations Through 1997*, vol. IV, sec. L. The one freestanding section of subtitle A of title XV, the Mickey Leland Food for Peace Act, was repealed in 1996.

AN ACT To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

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

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TITLE XV—AGRICULTURAL TRADE

SEC. 1501.[1] SHORT TITLE.

This title may be cited as the "Agricultural Development and Trade Act of 1990".

[1] 7 U.S.C. 1691 note.

SUBTITLE A—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

SEC. 1511.[2] SHORT TITLE.

This subtitle may be cited as the "Mickey Leland Food for Peace Act".

SEC. 1512.[3] AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended to read as follows:

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SUBTITLE C—EXPORT PROMOTION

SEC. 1531.[4] AMENDMENT TO THE AGRICULTURAL TRADE ACT OF 1978.

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SUBTITLE D—GENERAL PROVISIONS

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SEC. 1542.[5] PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS.

(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2002 not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.

(b)[6] FACILITIES AND SERVICES.—A portion of such export credit guarantees shall be made available[7] for—

(1) the establishment or improvement of facilities, or

(2) the provision of services or United States produced goods, in emerging markets[8] by United States persons[7] to improve handling, marketing, processing, storage, or distribution of imported

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[2] 7 U.S.C. 1691 note. The one freestanding section of the Mickey Leland Food for Peace Act, sec. 1517—Debt-for-Health-and-Protection Swap, was repealed by sec. 265 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 974).

[3] Sec. 1512 amended the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

[4] Sec. 1531 amended the Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.).

[5] 7 U.S.C. 5622 note. Sec. 277(a)(1)(A) of Public Law 104–127 (110 Stat. 977) struck out "EMERGING DEMOCRACIES" from the section catchline, and inserted in lieu thereof "EMERGING MARKETS". Sec. 277(a)(2) of that Act amended and restated subsec. (a), which had formerly read, as amended, as follows:

"(a) GUARANTEES TO BE MADE AVAILABLE.—The Commodity Credit Corporation, for the fiscal years 1991 through 1995 shall make available not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging democracies under section 201 or 202 of the Agricultural Trade Act of 1978, in addition to the amounts required or authorized under section 211 of that Act for such program.".

[6] Sec. 706(2)(A) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) struck out the subsec. heading "Improvement of Facilities.—" and inserted in lieu thereof "Facilities and Services.—".

[7] Sec. 706(2)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) struck out "for the establishment or improvement by United States persons of facilities in emerging democracies" following "shall be made available" and inserted in lieu thereof "for—" and par. (1) and (2), through "by United States persons".

[8] Sec. 277(a)(1)(B) of Public Law 104–127 (110 Stat. 977) struck out "emerging democracies" each place it appeared in subsecs. (b), (d), and (e), and inserted in lieu thereof "emerging markets".

agricultural commodities and products thereof if the Secretary of Agriculture determines that such guarantees will primarily promote the export of United States agricultural commodities (as defined in section 102(7)[9] of the Agricultural Trade Act of 1978). The[10] Commodity Credit Corporation shall give priority under this subsection to—

(A) projects that encourage the privatizations of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

(2) projects for which nongovernmental persons agree to assume a relatively larger share of the costs.

(c) CONSULTATIONS.—Before the authority under this section is exercised, the Secretary of Agriculture shall consult with exporters of United States agricultural commodities (as defined in section 102(7)[9] of the Agricultural Trade Act of 1978), nongovernmental experts, and other Federal Government agencies in order to ensure that facilities in an emerging market[11] for which financing is guaranteed under paragraph (1)(B) do not primarily benefit countries which are in close geographic proximity to that emerging market.[11]

(d)[12] E (KIKA) DE LA GARZA AGRICULTURAL FELLOWSHIP PROGRAM.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall establish a program, to be known as the "E (Kika) de la Garza Agricultural Fellowship Program", to develop agricultural markets in emerging markets[8] and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and emerging markets,[13] as follows:

(1) DEVELOPMENT OF AGRICULTURAL SYSTEMS.—

(A) IN GENERAL.—

(i) ESTABLISHMENT OF PROGRAM.—For each of the fiscal years 1991 through 2002,[14] the Secretary of Agriculture (hereafter in this section referred to as the "Secretary"), in order to develop, maintain, or expand markets for United States agricultural exports, is directed to make available to emerging markets[8] the expertise of the United States to make assessments of the food and rural business systems needs of such democracies,[15] make recommendations on measures nec-

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[9] Sec. 277(a)(4) of Public Law 104–127 (110 Stat. 978) struck out "section 101(6)" and inserted in lieu thereof "section 102(7)".

[10] Sec. 706(2)(C) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) struck out the last sentence which read "The Commodity Credit Corporation shall give priority under this subsection to opportunities or projects identified under subsection (d).", and inserted in lieu thereof "The Commodity Credit Corporation shall give priority under this subsection—" to the end of the subsection. Subsequently, sec. 277(a)(3)(A) of Public Law 104–127 (110 Stat. 977) amended and restated the last sentence.

[11] Sec. 277(a)(1)(C) of Public Law 104–127 (110 Stat. 977) struck out "emerging democracy" and inserted in lieu thereof "emerging market".

[12] Sec. 338(1) of Public Law 102–237 (105 Stat. 1859) struck out subsec. (d) heading, which had read "SHARING UNITED STATES AGRICULTURAL EXPERTISE.", inserted a new heading and new text through heading of first par. (1).

Sec. 338 of Public Law 102–237 further restated this subsection, and added a new par. (2) to establish the Agricultural Information Program.

[13] Sec. 277(a)(3)(B)(i) of Public Law 104–127 (110 Stat. 977) struck out "the Soviet Union" and inserted in lieu thereof "emerging markets".

[14] Sec. 277(a)(3)(B)(ii)(I)(aa) of Public Law 104–127 (110 Stat. 978) struck out "1995" and inserted in lieu thereof "2002".

[15] Reference to "democracies" should probably have been amended to read "markets" in keeping with other amendments to this section by sec. 277 of Public Law 104–127.

essary to enhance the effectiveness of the systems, including potential reductions in trade barriers, and identify and carry out[16] specific opportunities and projects to enhance the effectiveness of those systems.

(ii) EXTENT OF PROGRAM.—The Secretary shall implement this paragraph with respect to at least 3 emerging markets[8] in each fiscal year.

(B) EXPERTS FROM THE UNITED STATES.—The Secretary may[17] implement the requirements of subparagraph (A)—

(i) by providing assistance to teams consisting primarily of agricultural consultants, farmers, other persons from the private sector,[18] and government officials expert in assessing the food and rural business systems of other countries to enable such teams to conduct the assessments, make the recommendations, and identify the opportunities and projects specified in subparagraph (A) in emerging markets;[8]

(ii) by providing necessary subsistence expenses in the United States and necessary transportation expenses by individuals designated by emerging markets[8] to enable such individuals to consult with food and rural business system experts in the United States to enhance such systems of such emerging markets;[19] and

(iii) by providing for necessary subsistence expenses in emerging markets[19] and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging markets.[19]

(C) COST-SHARING.—The Secretary shall encourage the nongovernmental experts described in subparagraph (B) to share the costs of, and otherwise assist in, the participation of such experts in the program under this paragraph.

(D)[20] TECHNICAL ASSISTANCE.—The Secretary is authorized to provide, or pay the necessary costs for, technical assistance (including the establishment of extension services)[21] to enable individuals or other entities to implement the recommendations or to carry out the opportunities and projects identified under paragraph (1)(A). Notwithstand-

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[16] Sec. 277(a)(3)(B)(ii)(I)(bb) of Public Law 104–127 (110 Stat. 977) struck out "those systems, and identify" and inserted in lieu thereof "the systems, including potential reductions in trade barriers, and identify and carry out".

[17] Sec. 277(a)(3)(B)(ii)(II) of Public Law 104–127 (110 Stat. 978) struck out "shall" and inserted in lieu thereof "may".

[18] Sec. 706(3) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) inserted ", farmers, other persons from the private sector," after "agricultural consultants".

[19] Sec. 277(a)(1)(B) of Public Law 104–127 (110 Stat. 977) struck out "emerging democracies" each place it appeared in subsecs. (b), (d), and (e), and inserted in lieu thereof "emerging markets".

[20] Sec. 706(4) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) restated subpar. (D), which had read as follows:

"(D) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to implement the recommendations, or in connection with the opportunities or projects identified, under subparagraph (A).".

[21] Sec. 277(a)(3)(B)(ii)(III) of Public Law 104–127 (110 Stat. 978) inserted "(including the establishment of extension services)" after "technical assistance".

ing any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed $2,000,000 per year, and the expenses are not incurred for information technology systems.[22]

(E) REPORTS TO SECRETARY.—A team that receives assistance under subparagraph (B) shall prepare such reports as the Secretary may designate.

(F)[23] ADVISORY COMMITTEE.—To provide the Secretary with information that may be useful to the Secretary in carrying out the provisions of this paragraph, the Secretary shall establish an advisory committee composed of representatives of the various sectors of the food and rural business systems of the United States.

(G)[23] USE OF CCC.—The Secretary shall implement this paragraph through the funds and facilities of the Commodity Credit Corporation. The authority provided under this paragraph shall be in addition to and not in place of any other authority of the Secretary or the Commodity Credit Corporation.

(H)[23] LEVEL OF ASSISTANCE.—The Secretary shall provide assistance under this paragraph of not more than $10,000,000 in any fiscal year.

(2) AGRICULTURAL INFORMATION PROGRAM.—

(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, administered to complement the emerging markets[19] export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in emerging markets[24] in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of free market food production and distributions systems[25] in emerging markets[24] and the enhancement of agricultural trade with the United States.

(B) IMPLEMENTATION.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

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[22] Sec. 278 of Public Law 104–127 (110 Stat. 979) added the last sentence to subpar. (D).

[23] Sec. 277(a)(3)(B)(ii)(IV) of Public Law 104–127 (110 Stat. 978) struck out subpara. (F), which had required the Secretary of Agriculture to report to Congress annually on activities carried out under this paragraph. Sec. 277(a)(3)(B)(ii)(V) redesignated subparas. (G), (H), and (I), as subparas. (F), (G), and (H), respectively.

[24] Sec. 277(a)(3)(B)(iii)(I) of Public Law 104–127 (110 Stat. 978) struck out "the Soviet Union" throughout para. (2), and inserted in lieu thereof "emerging markets".

[25] Sec. 277(a)(3)(B)(iii)(II) of Public Law 104–127 (110 Stat. 978) struck out "a free market food production and distribution system" and inserted in lieu thereof "free market food production and distribution systems".

(i) compile, through contacts with the governments[26] of emerging markets[24] and private sector officials in emerging markets,[24], list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

(iii) carry out a program—

(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i);[27]

(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and emerging markets,[24] which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises; and[27]

(IV)[27] to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.

(C) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to emerging markets.[24]

(D)[28] AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.

(e) FOREIGN DEBT BURDENS.—

(1) EFFECT OF CREDITS.—In carrying out the program described in subsection (a), the Secretary of Agriculture shall ensure that the credits for which repayment is guaranteed under

[26] Sec. 277(a)(3)(B)(iii)(III)(aa) of Public Law 104–127 (110 Stat. 978) struck out "Government" and inserted in lieu thereof "governments".

[27] Sec. 277(a)(3)(B)(iii)(III) of Public Law 104–127 (110 Stat. 978) struck out "and" at the end of subclause (II); struck the period at the end of subclause (III) and inserted in lieu thereof "; and"; and added a new subclause (IV).

[28] Sec. 277(a)(3)(B)(iii)(IV) and (V) of Public Law 104–127 (110 Stat. 978) struck out subpara. (D), and redesignated subpara. (E) as subpara. (D). Sec. 277(a)(3)(B)(iv) of that Act struck out para. (3), which had authorized the Secretary of Agriculture to grant fellowships to individuals from countries that are parties to the North American Free Trade Agreement to study agriculture in the United States, and to individuals in the United States to study agriculture in other NAFTA countries. The para. had been added by sec. 321(g) of the North American Free Trade Agreement Implementation Act (Public Law 103–182; 107 Stat. 2112).

subsection (a) do not negatively affect the political and economic situation in emerging markets[19] by excessively adding to the foreign debt burdens of such countries.

(2) CONSULTATION AND REPORT.—Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not[29] later than 6 months after the effective date of this title, and not later than the end of each 6-month period occurring thereafter, the Secretary of Agriculture, in consultation with other appropriate Federal departments, shall prepare and transmit to the Committee on Foreign Affairs[30] and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report to assist the Congress in assessing the extent to which credits for which repayment is guaranteed under subsection (a) meet the requirements of paragraph (1). The report shall include—

(A) the amount and allocation, by country, of credit guarantees issued under subsection (a);

(B) the aggregate foreign debt burdens of countries receiving commodities or facilities under such credit guarantees, expressed in terms of debt on account of agricultural commodities or products thereof, or facilities for which guarantees may be made under subsection (a)(1)(B), and all other debt;

(C) the activities of creditor governments and private creditors to reschedule or reduce payments due on existing debt owed to such creditors by a country in cases where such country has been unable to fully meet its debt obligations; and

(D) an analysis of—

(i) the economic effects of the foreign debt burden of each recipient country, and in particular the economic effects on each recipient country of the credits for which repayment is guaranteed under subsection (a); and

(ii) the relationship between any negative economic effects on any recipient country caused by its overall foreign debt burden and debt incurred under subsection (a) and such country's political stability.

(f)[31] EMERGING MARKET.—In this section and section 1543, the term "emerging market" means any country that the Secretary determines—

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[29] Sec. 277(a)(5) of Public Law 104–127 (110 Stat. 978) struck out "Not" and inserted in lieu thereof "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not".

[30] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[31] Sec. 277(a)(1)(D) of Public Law 104–127 (110 Stat. 977) amended and restated subsec. (f). Prior to this amendment, authority to determine what countries were taking steps toward political pluralism, certain economic reforms, respect for international recognized human rights, and a friendly relationship with the United States, rested with the President. On August 10, 1995, the President determined:

"that the following countries are taking steps set forth in section 1542(f) of the Act to qualify as emerging democracies for purposes of that section:

"Albania, Bangladesh, Belarus, Bosnia and Herzegovina, Bulgaria, Cambodia, Croatia, Czech Republic, Egypt, El Salvador, Estonia, the former Yugoslav Republic of Macedonia, Ghana, Guatemala, Hungary, Jordan, Kazakhstan, Latvia, Lithuania, Morocco, Namibia,

(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

SEC. 1543.[32] AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a fellowship program for,[33] to be known as the "Cochran Fellowship Program", to provide fellowships to individuals from eligible countries (as determined under subsection (b))[33] who specialize in agriculture for study in the United States.

(b) ELIGIBLE COUNTRIES.—Countries described in any of the following paragraphs[34] shall be eligible to participate in the program established under this section:

(1) MIDDLE-INCOME COUNTRY.—A country that has developed economically to the point where it no longer qualifies for bilateral foreign aid assistance from the United States because its per capita income level exceeds the eligibility requirements of such assistance programs (hereafter referred to in this section as a "middle-income" country).

(2) ONGOING RELATIONSHIP.—A middle-income country that has never qualified for bilateral foreign aid assistance from the United States, but with respect to which an ongoing relationship with the United States, including technical assistance and training, would provide mutual benefits to such country and the United States.

(3) TYPE OF GOVERNMENT.—A country that has recently begun the transformation of its system of government from a non-representative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

(4)[35] INDEPENDENT STATES OF THE FORMER SOVIET UNION.—A country that is an independent state of the former Soviet Union (as defined in section 102(8) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(8)), to the extent that the Secretary

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Nicaragua, Pakistan, Panama, the Philippines, Poland, Romania, Russia, Slovak Republic, Slovenia, South Africa, Tanzania, Tunisia, Ukraine, Yemen, and Zimbabwe.

"In making this determination, I have considered the eligibility only of those countries for which programs are underway or currently contemplated by the Department of Agriculture." (Presidential Determination No. 95–35; 60 F.R. 44723).

[32] 7 U.S.C. 3293. Sec. 277(b)(1) of Public Law 104–127 (110 Stat. 979) struck out "MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES" from the section catchline, and inserted in lieu thereof "MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS".

[33] Sec. 705(a)(1) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) struck out "middle income countries and emerging democracies" after "program for," and inserted "(as determined under subsection (b))" after "eligible countries". Should read " * * * a fellowship program to be known as * * *".

[34] Sec. 705(a)(2)(A) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) struck out "that meet the following requirements" after "Countries", and inserted in lieu thereof "described in any of the following paragraphs".

[35] Sec. 705(a)(2)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) added paragraph (4).

of Agriculture determines that such country should be eligible to participate in the program established under this section.

(5)[36] EMERGING MARKET.—Any emerging market, as defined in section 1542(f).

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this section shall be provided to permit the recipients to gain knowledge and skills that will—

(1) assist eligible countries to develop agricultural systems necessary to meet the food and fiber needs[37] of their domestic populations; and

(2) strengthen and enhance trade linkages between eligible countries and agricultural interests in the United States.

(d) INDIVIDUALS WHO MAY RECEIVE FELLOWSHIPS.—The Secretary shall utilize the expertise of United States agricultural counselors, trade officers, and commodity trade promotion groups working in participating countries to help identify program candidates for fellowships under this section from both the public and private sectors of those countries. The Secretary may provide fellowships under the program authorized by this section to private agricultural producers from eligible countries.[38]

(e) PROGRAM IMPLEMENTATION.—The Secretary shall consult with other United States Government agencies, United States universities, and the private agribusiness sector, as appropriate, to design and administer training programs to accomplish the objectives of the program[39] established under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the program established under this section, except that the amount of such funds in any fiscal year shall not exceed—

(1) for eligible countries that meet the requirements of subsection (b)(1), $3,000,000;

(2) for eligible countries that meet the requirements of subsection (b)(2), $2,000,000; and

(3) for eligible countries that meet the requirements of subsection (b)(3), $5,000,000.

(g) COMPLEMENTARY FUNDS.—If the Secretary of Agriculture determines that it is advisable in furtherance of the purposes of the program established under this section, the Secretary may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and may, in any manner, dispose of all such holdings and use the receipts generated from such disposition as general program funds under this section. All funds so designated for the program established under this section shall remain available until expended.

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[36] Sec. 277(b)(2) of Public Law 104–127 (110 Stat. 979) added para. (5).

[37] Sec. 277(b)(3) of Public Law 104–127 (110 Stat. 979) struck out "food needs" and inserted in lieu thereof "food and fiber needs".

[38] Sec. 705(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) added the last sentence in subsec. (d).

[39] Sec. 1002 of Public Law 102–237 (105 Stat. 1894) struck out "Program" and inserted in lieu thereof "program".

SEC. 1544.[40] ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.

(a) WAIVER OF CERTAIN RESTRICTIONS.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide economic assistance for a country which, because of its coca production, is a major illicit drug producing country (as defined in section 481(e)(2)[41] of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2))) to promote the production, processing, or the marketing of products which can be economically produced in such country, notwithstanding the provisions of law described in subsection (b) of this section.

(b) DESCRIPTION OF RESTRICTIONS WAIVED.—The provisions of law made inapplicable by subsection (a) are any other provisions of law that would otherwise restrict the use of economic assistance funds with respect to the production, processing, or marketing of agricultural commodities (or the products thereof) or other products, including sections 521, 546, and 547 (but excluding section 510) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, and comparable provisions of subsequent Acts appropriating funds for foreign operations, export financing, and related programs.

(c) DEFINITION OF ECONOMIC ASSISTANCE.—As used in this section, the term "economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and assistance under chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

SEC. 1545.[42] * * * [Repealed—1996]

SUBTITLE E—STUDIES, REPORTS, AND OTHER PROVISIONS[43]

SEC. 1551. * * * [Repealed—1996]

SEC. 1552. * * * [Repealed—1996]

SEC. 1553. * * * [Repealed—1996]

SEC. 1554. * * * [Repealed—1996]

SEC. 1555. * * * [Repealed—1996]

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[40] 22 U.S.C. 2151x–2.

[41] Formerly read "section 481(i)(2)". Sec. 6(a) of Public Law 102–583 (106 Stat. 4932), however, provided that "Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) or section 481(i) of that Act shall be deemed to be a reference to section 489 or section 481(e) (as amended * * *)".

[42] Formerly at 7 U.S.C. 1761 note. 273 of Public Law 104–127 (110 Stat. 976) repealed sec. 1545, relating to world livestock market price information.

[43] Sec. 281(a) of Public Law 104–127 (110 Stat. 980) repealed the following sections from this subtitle: sec. 1551—study of North American free trade area; sec. 1552—rose and flower study; sec. 1553—commodity transportation and technology assessment and report; sec. 1554—report on sec. 22 suspension (Agricultural Adjustment Act) or termination; sec. 1555—agricultural exports to the European Community; sec. 1558—sense of Congress concerning rebalancing proposal of the European Community (redesignated from sec. 1559 by sec. 1011(d) of Public Law 104–66; 109 Stat. 709); and sec. 1559—sense of the Senate regarding multilateral trade negotiations ((redesignated from sec. 1560 by sec. 1011(d) of Public Law 104–66; 109 Stat. 709).

SEC. 1556.[44] LANGUAGE PROFICIENCY AND EVALUATION OF FOREIGN AGRICULTURAL SERVICE OFFICERS.

(a) ASSESSMENT OF FOREIGN LANGUAGE COMPETENCE.—The Foreign Agricultural Service shall revise its evaluation reports for its Foreign Service officers so as to require in a separate entry an assessment of the officer's effectiveness in using, in his or her work, a foreign language or foreign languages tested at the General Professional Speaking Proficiency level or above, in cases where the supervisor is capable of making such an assessment.

(b) PRECEDENCE IN PROMOTION.—The Director of Personnel of the Foreign Agricultural Service shall instruct promotion panels to take account of language ability and, all criteria for promotion otherwise being equal, to give precedence in promotions to officers who have achieved at least the General Professional Speaking Proficiency level in 1 or more foreign languages over officers who lack that level of proficiency.

SEC. 1557.[45] REPORTING REQUIREMENTS RELATING TO TOBACCO. * * *

SEC. 1558.[46] * * * [Repealed—1996]

SEC. 1558.[43, 46] * * * [Repealed—1996]

SEC. 1559.[43, 46] * * * [Repealed—1996]

SUBTITLE F—CONFORMING PROVISIONS AND TECHNICAL CHANGES[47]

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[44] 7 U.S.C. 5694 note. Subsec. (c) of this sec. was struck out by sec. 281(b) of Public Law 104–127 (110 Stat. 980). It had required a report to Congress on language proficiency in Foreign Agricultural Services personnel.

[45] Sec. 1557 amended the Tobacco Adjustment Act of 1983 at 7 U.S.C. 509.

[46] Sec. 1011(d) of Public Law 104–66 (109 Stat. 709) repealed sec. 1558, which required a report on the origin of exports of peanuts. That sec. also redesignated secs. 1559 and 1560 as secs. 1558 and 1559, respectively. These two latter secs. were subsequently repealed by sec. 281(a) of Public Law 104–127 (110 Stat. 980).

[47] Subtitle F amended the Omnibus Trade and Competitiveness Act of 1988, the Food Security Act of 1985, the Agriculture and Food Act of 1981, the Food for Peace Act of 1966, the Agricultural Act of 1949, the Agricultural Act of 1956, the Agricultural Technical Corrections Act (Public Law 101–220; 7 U.S.C. 1736cc), and the Agricultural Act of 1970.

f. Agricultural Act of 1949

Partial text of Public Law 81–439 [H.R. 5345], 63 Stat. 1051, approved October 31, 1949; as amended by Public Law 83–480 [S. 2475], 68 Stat. 458, approved July 10, 1954; Public Law 84–540 [H.R. 10875], 70 Stat. 203, approved May 28, 1956; Public Law 85–483 [H.R. 12164], 72 Stat. 286, approved July 2, 1958; Public Law 86–108 [H.R. 7500], 73 Stat. 250, approved July 24, 1959; Public Law 87–703 [H.R. 12391], 76 Stat. 611, approved September 27, 1962; Public Law 88–638 [S. 2687], 78 Stat. 1038, approved October 8, 1964; Public Law 89–808 [H.R. 14929], 80 Stat. 1538, approved November 11, 1966; Public Law 91–233 [S. 2595], 84 Stat. 199, approved April 17, 1970; Public Law 92–603 [H.R. 1], 86 Stat. 1492, approved October 30, 1972; Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977; Public Law 96–494 [Agricultural Trade Suspension Adjustment Act of 1980, H.R. 3765], 94 Stat. 2570, approved December 3, 1980; Public Law 97–98 [Agriculture and Food Act of 1981, S. 884], 95 Stat. 1213, approved December 22, 1981; Public Law 97–253 [Omnibus Budget Reconciliation Act of 1982, H.R. 6955], 96 Stat. 766, approved September 8, 1982; Public Law 98–258 [Agricultural Programs Adjustment Act of 1984, H.R. 4072], 98 Stat. 137, approved April 10, 1984; Public Law 99–83 [S. 960], 99 Stat. 271, approved August 8, 1985; Public Law 99–198 [Food Security Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 99–260 [Food Security Improvements Act of 1986, H.R. 1614], 100 Stat. 45, approved March 20, 1986; Public Law 100–203 [Omnibus Budget Reconciliation Act of 1987, H.R. 3545], 101 Stat. 1330, approved December 22, 1987; Public Law 100–277 [Agricultural Act of 1949, Amendment; S. 2151], 102 Stat. 67, approved April 4, 1988; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114] 104 Stat. 2032, approved November 5, 1990; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–289 [H.R. 4774], 106 Stat. 176, approved May 20, 1992; Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854] 110 Stat. 888, approved April 4, 1996

AN ACT To stabilize prices of agricultural commodities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1949".

* * * * * * *

Sec. 107F.[1] * * * [Repealed—1990]

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[1] Sec. 1161(a)(2) of Public Law 101–624 (Food, Agriculture, Conservation, and Trade Act of 1990; 104 Stat. 3520) repealed sec. 107F. Sec. 107F had provided for a program, applicable to any of the 1986 through 1990 crops of wheat or feed grains, to provide incentives for the export of wheat and feed grains from private stocks.

INTERNATIONAL EMERGENCY FOOD RESERVE

Sec. 111.[2] The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.".

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Sec. 113.[3] *** * * [Repealed—1996]**

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Sec. 416.[4] (a)[5] In order to prevent the waste of commodities whether private stocks[6] or acquired through price-support operations by Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children,[7] in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served.[8] In the

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[2] Sec. 111 was added by sec. 1102 of the Food and Agriculture Act of 1977 (Public Law 95–113; 91 Stat. 953).

[3] Formerly at 7 U.S.C. 1445h. Sec. 113, relating to supplemental set-aside and acreage limitation authority, was repealed by sec. 171(b)(2)(F) of Public Law 104–127 (110 Stat. 938).

[4] 7 U.S.C. 1431. Sec. 302 of Public Law 83–480 (68 Stat. 458) comprehensively amended and restated sec. 416.

Sec. 703 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), provided the following:

"Sec. 703. Assistance for Private Voluntary Organizations.

"The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

"(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

"(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

"(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).".

[5] Sec. 502 of Public Law 98–258 (98 Stat. 137) inserted the subsec. designation "(a)" and added new subsecs. (b) and (c).

See also sec. 513 of Public Law 98–411 (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985) that stated the sense of the Congress that the newly enacted authority under sec. 416 of this Act should be used to help feed Guatemalan refugees in Mexico.

[6] Sec. 205(c) of Public Law 86–108 (73 Stat. 250) added the reference to private stocks.

[7] Sec. 1 of Public Law 85–483 (72 Stat. 286) added the reference to nonprofit summer camps for children.

[8] Sec. 3(c) of Public Law 89–808 (80 Stat. 1538) struck out clause (4) which previously appeared at this point. Clause (4) provided for the donation of excess food commodities to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid or other appro-

case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible.[9] For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals and facilities, to the extent that they serve needy persons (including infants and children),[10] be donated for any such use prior to any other use or disposition.[11] Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965.[12]

(b)[5, 13] (1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under titles II and III[14] of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under

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priate Federal agencies and intergovernmental organizations for use in assistance of needy persons and in nonprofit lunch programs outside the United States. The authority for such assistance was shifted to title II of Public Law 480.

[9] Sec. 212 of Public Law 84–540 (70 Stat. 203) added this sentence.

[10] Sec. 1771(b)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3807) struck out "hospitals, to the extent that needy persons are served" and inserted in lieu thereof "hospitals and facilities, to the extent that they serve needy persons (including infants and children)".

[11] Public Law 91–233 (84 Stat. 199) added this sentence.

Another sentence, that previously appeared at this point, was repealed by sec. 1302(a)(2) of Public Law 95–113 (91 Stat. 979). This sentence, added by sec. 411(g) of Public Law 92–603 (86 Stat. 1492), prohibited persons eligible to receive supplementary income under title XVI of the Food Stamp Act of 1964 from participating in any program conducted under sec. 416.

[12] Sec. 1109(1) of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1467), deleted at this point language authorizing donation of such dairy products for the assistance of needy persons outside the United States. This text was originally added by sec. 110 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97–253; 96 Stat. 766).

[13] Sec. 1109(2) of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1467), comprehensively amended and restated subsec. b.

[14] Sec. 1514(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "title II" and inserted in lieu thereof "titles II and III".

this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954.

(2) As used in this subsection, the term 'eligible commodities' means—

(A) dairy products, wheat, rice, feed grains,[15] and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof,[15] that the Secretary determines meet the criteria specified in subsection (a); and

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will in any way reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 403(a)[16] of the Agricultural Trade Development and Assistance Act of 1954 shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

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[15] Subsec. (b)(2)(A) was amended by sec. 1 of Public Law 100–277 (102 Stat. 67) which inserted "wheat, rice, and feed grains" in lieu of "grains", and inserted ", and the products thereof," after "price support operations".

[16] Sec. 1514(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "402(b)" and inserted in lieu thereof "403(a)".

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D)[17] If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.[18]

(5)(A) Section 406[19] of the Agricultural Trade Development and Assistance Act of 1954 shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 406[19] of the Agricultural Trade Development and Assistance Act of 1954 in connection with those commodities, shall be in addition to the level of assistance programmed under that Act and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities[20] furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency

[17] Subsec. (D) was added by sec. 2 of Public Law 100–277 (102 Stat. 67).

[18] The text to this point beginning with "In agreements with" was added by sec. 2 of Public Law 100–277 (102 Stat. 67).

[19] Sec. 1514(3) and (4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "203" and inserted "406".

[20] The text ", and products thereof," which previously appeared at this point was deleted by sec. 1(a)(b)(2) of Public Law 100–277 (102 Stat. 67).

or cooperative, of foreign currency proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii)[21] Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

In[22] addition, foreign currency proceeds generated in Poland may also be used by governmental and nongovernmental[23] agencies or cooperatives for eligible activities approved by the joint commission[24] established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of governmental or[23] private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland;[25]

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture; and

(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.

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[21] Clause (ii) was amended and restated by sec. 4(a) of Public Law 100–277 (102 Stat. 67). Clause (ii) previously read as follows:

"(ii) Foreign currency proceeds generated from the sales of commodities and products under this subparagraph shall be used by nonprofit and voluntary agencies, or cooperatives, for activities carried out by the agency or cooperative that will enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs and cooperative and agricultural projects.".

[22] Sec. 2225 of Public Law 100–418 added text from this point, through subclause (III).

[23] The paragraph titled "Poland Assistance" in sec. 562 of Public Law 101–513 (104 Stat. 2032) struck out "such" and inserted in lieu thereof "governmental and nongovernmental" following "may also be used by"; and inserted "governmental or" following "activities of".

[24] Sec. 2226 of Public Law 100–418 provided the following concerning this joint commission:

"(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

"(b) MEMBERSHIP.—The joint commission shall be composed of—

"(1) appropriate representatives of the Government of Poland;

"(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

"(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.".

[25] Sec. 576(c) of Public Law 103–306 (108 Stat. 1654) struck out "and" at the end of subclause (II), replaced a period at the end of subclause (III) with "; and", and added subclause (IV).

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for foreign currency proceeds in amounts that are, in the aggregate, not less than 10[26] percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater,[26] for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under titles II and III[27] of the Agricultural Trade Development and Assistance Act of 1954, and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985.

(iv) Foreign currency proceeds generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

(II) if the proceeds are generated in a currency generally accepted in the other country.[28]

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).

(F)[29] The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.

The[30] Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative ex-

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[26] Sec. 4(b) of Public Law 100–277 (102 Stat. 68). inserted "10 percent" in lieu of "5 percent" and added the text ", or the minimum tonnage required, whichever is greater,".

[27] Sec. 1514(5)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "title II" and inserted in lieu thereof "titles II and III".

[28] Sec. 264(1)(A)(i) of Public Law 104–127 (110 Stat. 974) struck out "one year of acquisition of such currency, except that the Secretary may permit the use of such proceeds (I) in countries other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, (II) after one year of acquisition as appropriate to achieve the purpose of clause (i), and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country." and inserted in lieu thereof sentence beginning at "a reasonable length of time".

[29] Sec. 1514(5)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) added subpar. (F). Sec. 333 of Public Law 102–237 (105 Stat. 1859) corrected the indentation of subpar. (F).

[30] Sec. 264(1)(A)(ii) of Public Law 104–127 (110 Stat. 974) struck out "No portion of the proceeds or services realized from sales or barter under this paragraph may be used to meet operating and overhead expenses, except as otherwise provided in subparagraph (C) and except for personnel and administrative costs incurred by local cooperatives." and inserted the new sentence following subpara. (F).

penses incurred in connection with activities undertaken under this subsection.

(8)[31] (A) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

(B) The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clause (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

(i) the quantity of commodities furnished for such sale or barter;

(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

(iii) how such funds and services were used;

(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

(II) affect usual marketings of the United States,

[31] Sec. 264(1)(B) of Public Law 104–127 (110 Stat. 974) struck out subpara. (C) to para. (8). The subpara. was originally added by sec. 5 of Public Law 100–277 (102 Stat. 68).

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph 7.

(10)–(12)[32] * * * [Repealed—1996]

(c)[33] * * * [Repealed—1996]

(d)[34] * * * [Repealed—1990]

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[32] Sec. 264(1)(C) of Public Law 104–127 (110 Stat. 974) struck out paras. (10), (11), and (12).

[33] Sec. 264(2) of Public Law 104–127 (110 Stat. 974) struck out subsec. (c), which authorized the Commodity Credit Corporation, under the Secretary of Agriculture, to carry out a two-year pilot program under which the Corporation shall barter or exchange accumulated dairy products for processed fluid milk. Subsec. (c) was originally added by sec. 502 of Public Law 98–258 (98 Stat. 137).

[34] Sec. 1575 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702) struck out subsec. (d), which had provided for "a pilot program under which strategic or other materials that the United States does not produce domestically in amounts sufficient for its requirements and for which national stockpile or reserve goals established by law are unmet shall be acquired in exchange for commodities meeting the criteria specified in subsection (a).". Subsec. (d) was added by sec. 1129 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1486).

g. Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998

Partial text of Public Law 105–86 [H.R. 2160], 111 Stat. 2079, approved November 18, 1997

AN ACT Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes, namely:

* * * * * * *

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $128,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $135,561,000, of which $3,231,000 may be transferred from the Export Loan Program account in this Act, and $1,035,000 may be transferred from the Public Law 480 program account in this Act: *Provided,* That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM AND GRANT ACCOUNTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest there-

on, under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, and 1731–1736g), as follows: (1) $226,900,000 for Public Law 480 title I credit, including Food for Progress programs; (2) $17,608,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985; (3) $837,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $30,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 15 percent of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further*, That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit agreements under said Act, $176,596,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 480 are utilized, $1,850,000.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $3,820,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which not to exceed $3,231,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Foreign Agricultural Service, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Farm Service Agency.

EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,500,000,000 in credit guarantees under its export credit guarantee program extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 202(a) and (b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING MARKETS EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its export guarantee program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerg-

ing markets, as authorized by section 1542 of Public Law 101-624 (7 U.S.C. 5622 note).

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TITLE VII—GENERAL PROVISIONS

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SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

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This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998".

h. Food Security Act of 1985

Partial text of Public Law 99–198 [H.R. 2100], 99 Stat. 1354, approved December 23, 1985, as amended by Public Law 99–260 [Food Security Improvements Act of 1986, H.R. 1614], 100 Stat. 45, approved March 20, 1986; Public Law 100–277 [Agricultural Act of 1949, Amendment; S. 2151], 102 Stat. 67, approved April 4, 1988; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 100–435 [Hunger Prevention Act of 1988, S. 2560], 102 Stat 1645, approved September 19, 1988; Public Law 101–239 [Omnibus Budget Reconciliation Act of 1989, H.R. 3299], 103 Stat. 2106, approved December 19, 1989; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103–465 [Uruguay Round Agreements Act; H.R. 5110], 108 Stat. 4809, approved December 8, 1994; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

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

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TITLE IX—SUGAR

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PREVENTION OF SUGAR LOAN FORFEITURES

SEC. 902.[1] * * *

(c)[2] (1)[3] Beginning with the quota year for sugar imports which begins after the 1985/1986 quota year, the President shall not allocate any of the sugar import quota under such provisions to any country that is a net importer of sugar derived from sugarcane or sugar beets unless the appropriate officials of the country verify to the President that that country does not import for reexport to the United States any sugar produced in Cuba.

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[1] 7 U.S.C. 1446 note.

[2] Sec. 204(b)(4) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 785) provides for the President to suspend this subsection, to the extent that this and other suspensions contribute to a stable foundation for a democratically elected government in Cuba. Sec. 204(d)(4) of that Act provides for the repeal of this subsection on the date the President determines that a democratically elected government in Cuba is in power, submits that determination to the appropriate congressional committees and commences the delivery and distribution of assistance to such a democratically elected government.

[3] Sec. 903 of Public Law 101–624 (104 Stat. 3488) added para. designation "(1)", and added para. (2).

(2)[3] (A) Effective 90 days after the date of enactment of this paragraph and by August 1 of each year thereafter through 1995, the Secretary of Agriculture shall report to the President and Congress on the extent, if any, of sugar imports from Cuba by the countries described in paragraph (1).

(B) Commencing with the quota year for sugar imports after the 1990–1991 quota year, the President shall report to Congress by January 1, on—

(i) the identity of the countries that are net importers of sugar derived from sugarcane or sugar beets who have a quota for the current quota year;

(ii) the identity of such countries who have verified that they do not import for reexport to the United States any sugar produced in Cuba; and

(iii) the action, if any, taken by the President with respect to countries reported by the Secretary of Agriculture as net importers of sugar derived from sugarcane or sugar beets who imported the sugar from Cuba who reexported the sugar to the United States during the previous quota year.

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TITLE XI—TRADE

Subtitle A—Public Law 480 and Use of Surplus Commodities in International Programs

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FACILITATION OF EXPORTS

Sec. 1106. It is the sense of Congress that the President should work with the People's Republic of China to facilitate the export of agricultural commodities to the People's Republic of China.

FARMER-TO-FARMER PROGRAM UNDER PUBLIC LAW 480

Sec. 1107.[4] (a) Notwithstanding any other provision of law, not less than one-tenth of 1 percent of the funds available for each of the fiscal years ending September 30, 1986 through September 30, 1990,[5] to carry out the Agricultural Trade Development and Assistance Act of 1954 shall be used to carry out paragraphs (1) and (2) of section 406(a) of that Act. Any such funds used to carry out paragraph (2) of section 406(a) shall not constitute more than one-fourth of the funds used as provided by the first sentence of this subsection, shall be used for activities in direct support of the farmer-to-farmer program under paragraph (1) of section 406(a), and shall be administered whenever possible in conjunction with programs under sections 296 through 300 of the Foreign Assistance Act of 1961.

(b) Not later than 120 days after the date of enactment of this Act, the Administrator of the Agency for International Development, in conjunction with the Secretary of Agriculture, shall sub-

[4] 7 U.S.C. 1736 note.

[5] Sec. 6 of Public Law 100–277 (102 Stat. 69) substituted "through September 30, 1990" in lieu of ", and September 30, 1987".

mit to Congress a report indicating the manner in which the Agency intends to implement the provisions of paragraphs (1) and (2) of section 406(a) of the Agricultural Trade Development and Assistance Act of 1954 with the funds made available under subsection (a).

* * * * * * *

FOOD FOR PROGRESS

Sec. 1110.[6] (a) This section may be cited as the "Food for Progress Act of 1985".

(b)[7,8] In order to use the food resources of the United States more effectively in support of developing countries, and countries that are emerging democracies, that[9] have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President is authorized to enter into agreements with the governments of such countries (including the independent states of the former Soviet Union),[10] or with private voluntary organizations, nonprofit agricultural organizations, cooperatives, intergovernmental organizations,[11] or other private entities,[12] to furnish commodities made available pursuant to subsections (e) and (f) of this section. Such agreements may provide for commodities to be furnished on a multiyear basis.

(c) As used in this section, the term "commodities" means agricultural commodities and the products thereof.

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[6] 7 U.S.C. 1736o. Sec. 4(g) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) delegated to the Secretary of Agriculture the functions conferred on the President in the Food for Progress Act, as amended.

Sec. 703 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), provided the following:

"Sec. 703. Assistance for Private Voluntary Organizations.

"The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

"(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

"(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

"(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).".

[7] The function vested in the President by sec. 1110(b) of entering into agreements with developing countries and any report requirements concerning such agreements was delegated to the Director of the International Development Cooperation Agency by Executive Order 12583 of February 19, 1987, 52 F.R. 5427. This function may be redelegated to the head of any other agency. Executive Order 12583 also provided that the exercise of this function be coordinated through the Food Aid Subcommittee of the Development Coordination Committee.

[8] Sec. 701(1)(C) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3348) inserted paragraph designation (1), and sec. 701(1)(D) of that Act added par. (2). Subsequently, sec. 227(1) of Public Law 104–127 (110 Stat. 962) struck out these two additions.

[9] Sec. 1516(1)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "countries that" and inserted in lieu thereof "developing countries, and countries that are emerging democracies, that".

[10] Sec. 701(1)(A) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3348) inserted "(including the independent states of the former Soviet Union)" after "such countries".

[11] Sec. 227(1)(A)(ii) of Public Law 104–127 (110 Stat. 962) inserted "intergovernmental organizations," after "cooperatives".

[12] Sec. 1516(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "developing countries" and inserted in lieu thereof "the governments of such countries, or with private voluntary organizations, nonprofit agricultural organizations, or cooperatives,". Sec. 701(1)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3348) further amended this clause by striking out "or cooperatives" and inserting in lieu thereof "cooperatives, or other private entities".

(d) In determining whether to enter into an agreement[13] under this section, the President shall consider whether a potential recipient country is committed to carry out, or is carrying out, policies that promote economic freedom, private, domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such commodities. Such policies may provide for, among other things—

(1) access, on the part of farmers in the country, to private, competitive markets for their product;

(2) market pricing of commodities to foster adequate private sector incentives to individual farmers to produce food on a regular basis for the country's domestic needs;

(3) establishment of market-determined foreign exchange rates;

(4) timely availability of production inputs (such as seed, fertilizer, or pesticides) to farmers;

(5) access to technologies appropriate to the level of agricultural development in the country; and

(6) construction of facilities and distribution systems necessary to handle perishable products.

(e)(1) The Commodity Credit Corporation shall make available to the President such commodities determined to be available under section 401 of the Agricultural Trade Development and Assistance Act of 1954 as the President may request for purposes of furnishing commodities under this section.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 in carrying out this section with respect to commodities made available under that Act.

(3) The Commodity Credit Corporation may finance the sale and exportation of commodities, made available under the Agricultural Trade Development and Assistance Act of 1954, which are furnished[14] under this section. Payment[14] for commodities made available under that Act which are purchased on credit terms under this section shall be on the same basis as the terms provided in section 103[15] of that Act.

(4) In the case of commodities made available under the Agricultural Trade Development and Assistance Act of 1954 for purposes of this section, section 406[16] of that Act shall apply to commodities furnished on a grant basis[17] under this section and sections 402,

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[13] Sec. 1516(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "with countries" at this point.

[14] Sec. 1516(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663): (A) struck out "to a developing country"; and (B) struck out "by a developing country".

[15] Sec. 265(b) of Public Law 104–127 (110 Stat. 974) struck out "section 106" and inserted in lieu thereof "section 103".

[16] Sec. 227(2) of Public Law 104–127 (110 Stat. 962) struck out "203" and inserted in lieu thereof "406".

[17] Sec. 1516(4)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "to a developing country" at these two points.

403(a), 403(c), and 403(i)[18] of that Act shall apply to all commodities furnished[17] under this section.

(f)(1)[19] The Commodity Credit Corporation may provide for—

(A) grants, or

(B)[20] sales on credit terms,

of commodities made available under section 416(b) of the Agricultural Act of 1949 for use in carrying out this section.

(2)[21] In carrying out section 416(b) of the Agricultural Act of 1949, the Commodity Credit Corporation may purchase commodities for use under this section if—

(A) the Commodity Credit Corporation does not hold stocks of such commodities; or

(B) Commodity Credit Corporation stocks are insufficient to satisfy commitments made in agreements entered into under this section and such commodities are needed to fulfill such commitments.

(3)[21] No funds of the Commodity Credit Corporation in excess of $30,000,000 (exclusive of the cost of commodities) may be used for each of fiscal years 1996 through 2002[22] to carry out this section with respect to commodities made available under section 416(b) of the Agricultural Act of 1949 unless authorized in advance in appropriation Acts.

(4)[21] The cost of commodities made available under section 416(b) of the Agricultural Act of 1949 which are furnished under this section, and the expenses incurred in connection with furnishing such commodities, shall be in addition to the level of assistance programmed under the Agricultural Trade Development and Assistance Act of 1954 and may not be considered expenditures for international affairs and finance.

(g) Not more than 500,000 metric tons of commodities may be furnished under this section in each of the fiscal years 1986 through 2992.[23]

(h) An agreement entered into under this section shall prohibit the resale or transshipment of the commodities provided under the agreement to other countries.

(i) In entering into agreements under this section, the President shall take reasonable steps to avoid displacement of any sales of United States commodities that would otherwise be made to such countries.

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[18] Sec. 1516(4)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "section 401(b)" and inserted in lieu thereof "sections 402, 403(a), 403(c), and 403(i)".

[19] Sec. 701(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3348) restated subsec. (f)(1).

[20] Sec. 227(3)(A) of Public Law 104–127 (110 Stat. 962) struck out "in the case of the independent states of the former Soviet Union," before "sales".

[21] Sec. 227(3) of Public Law 104–127 (110 Stat. 962) struck out para. (2), and redesignated paras. (3) through (5) as (2) through (4). Para. (2) had read as follows:

"(2) Not less than 75,000 metric tons shall be made available pursuant to section 416(b)(10)(C) of the Agricultural Act of 1949 to carry out this section unless the President determines there are an insufficient number of eligible recipients.".

[22] Sec. 227(3)(C) of Public Law 104–127 (110 Stat. 962) inserted "for each of fiscal years 1996 through 2002" after "may be used".

[23] Sec. 1516(6) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "1990" and inserted in lieu thereof "1995". Sec. 227(4) of Public Law 104–127 (110 Stat. 962) struck out "1995" and inserted in lieu thereof "2002".

(j)[24] In carrying out this section, the President may,[25] on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by the recipient[26] on a multiyear basis if the agreements otherwise meet the requirements of this section.

(k)[27] This section shall be effective during the period beginning October 1, 1985, and ending December 31, 2002.[28]

(l)[29] (1) To enhance the development of private sector agriculture in countries receiving assistance under this section,[30] the President may, in each of the fiscal years 1996 through 2002,[31] use in addition to any amounts or commodities otherwise made available under this section[30] for such activities, not to exceed $10,000,000 of Commodity Credit Corporation funds (or commodities of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs, and to provide technical assistance for monetization programs,[32] to strengthen private sector agriculture in recipient countries.

(2) To carry out this subsection, the President may provide agricultural commodities under agreements entered into under this Act in a manner that uses the commodity transaction as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities.

(3) The President may use the assistance provided under this subsection and local currencies derived from the sale of commodities under paragraph (2) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the capacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural commodities.

(m)[33] In carrying out this section,[34] the President shall approve, as determined appropriate by the President, agreements with agri-

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[24] Sec. 1572(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702) struck subsec. (j), which had been amended by that same Act at sec. 1516(7); and redesignated subsec. (k) as (j). Subsec. (j), as redesignated, was originally added by sec. 4303 of Public Law 100–418.

[25] Sec. 227(5) of Public Law 104–127 (110 Stat. 962) struck out "shall" and inserted in lieu thereof "may".

[26] Sec. 1516(8) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "recipient countries" and inserted in lieu thereof "the recipient".

[27] Sec. 335(3) of Public Law 102–237 (105 Stat. 1859) redesignated subsecs. (l) and (m) as (k) and (l), respectively.

[28] Sec. 1516(9) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "1990" and inserted in lieu thereof "December 31, 1995". Subsequently, sec. 335(1) of Public Law 102–237 (105 Stat. 1859) struck out reference to "September 30,". Subsequently, sec. 227(6) of Public Law 104–127 (110 Stat. 962) struck out "1995" and inserted in lieu thereof "2002".

[29] Sec. 1516(10) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) added subsec. (m). Sec. 335(3) of Public Law 102–237 (105 Stat. 1859) redesignated this subsec. as (l).

[30] Sec. 335(2) of Public Law 102–237 (105 Stat. 1859) struck out "this Act" and inserted in lieu thereof "this section".

[31] sec. 227(7)(A) of Public Law 104–127 (110 Stat. 962) struck out "1991 through 1995" and inserted in lieu thereof "1996 through 2002".

[32] Sec. 227(7)(B) of Public Law 104–127 (110 Stat. 963) inserted ", and to provide technical assistance for monetization programs," after monitoring of food assistance programs".

[33] Sec. 701(3) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3348) added subsecs. (m) and (n).

[34] Sec. 227(8)(A) of Public Law 104–127 (110 Stat. 963) struck out "with respect to the independent states of the former Soviet Union" after "In carrying out this section".

cultural trade organizations, intergovernmental organizations, private voluntary organizations and cooperatives[35] that provide for—

(1) the sale of commodities, including the marketing of these commodities through the private sector; and

(2) the use[36] of the proceeds generated in the humanitarian and development programs of such agricultural trade organizations, intergovernmental organizations, private voluntary organizations and cooperatives.[35]

(n)[33] As used in this section, the term "independent states of the former Soviet Union" means the independent states of the former Soviet Union as defined in section 102(8) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(8)).

SALES FOR LOCAL CURRENCIES; PRIVATE ENTERPRISE PROMOTION

Sec. 1111. (a) * * *

(b) The Congress finds that additional steps should be taken to use the agricultural abundance produced by American farmers—

(1) to relieve hunger and promote long-term food security and economic development in developing countries in accordance with the development assistance policy established under section 102 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–1); and

(2) to promote United States agricultural trade interests.

CHILD IMMUNIZATION

Sec. 1112. (a) * * *

(b) In the implementation of health programs undertaken in relation to assistance provided under the Agricultural Trade Development and Assistance Act of 1954, it shall be the goal of the organizations and agencies involved to provide as many additional immunizations of children as possible. Such increased immunization activities should be taken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President shall include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961, including a report on the estimated number of immunizations provided each year pursuant to this subsection.

SPECIAL ASSISTANT FOR AGRICULTURAL TRADE AND FOOD ASSISTANCE[37]

Sec. 1113.[38] (a) The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Assistance[37] (hereinafter in this section referred to as the "Special Assistant").

[35] Sec. 227(8)(B) of Public Law 104–127 (110 Stat. 963) struck out "private voluntary organizations and cooperatives" and inserted in lieu thereof "agricultural trade organizations, intergovernmental organizations, private voluntary organizations and cooperatives".

[36] Sec. 227(8)(C) of Public Law 104–127 (110 Stat. 963) struck out "in the independent states " after "the use".

[37] The word "assistance" replaced the word "aid" as a result of Sec. 4(a) of Public Law 99–260 (100 Stat. 49).

[38] 7 U.S.C. 1736–1.

The President shall appoint the initial Special Assistant not later than May 1, 1986.[39]

(b) The Special Assistant shall serve in the Executive Office of the President.

(c) The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production; and[40]

(B) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

(d)[41] Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.

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[39] The last sentence of sec. 1113(a) was added by sec. 4(d) of Public Law 99–260 (100 Stat. 49).

[40] Sec. 1572(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702): added "and" at the end of subpar. (A); struck out subpar. (B); and redesignated subpar. (C) as (B). Subpar. (B) had required "an identification of at least 15 target countries which are most likely to emerge as growth markets for agricultural commodities in the next 5 to 10 years".

[41] Subsec. (d) was amended by sec. 4(d) of Public Law 99–260 (100 Stat. 49), which substituted the provisions relating to the additional required functions of the Special Assistant for the provisions relating to compensation for the Special Assistant. Subsec. (d) previously read as follows:

"(d) The Special Assistant shall also—

"(1) solicit information and advice from private and governmental sources and recommend a plan to the President and Congress on measures that should be taken—

Subtitle B—Maintenance and Development of Export Markets

TRADE POLICY DECLARATION

Sec. 1121.[42] It is hereby declared to be the agricultural trade policy of the United States to—

(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;

(5) remove foreign policy constraints to maximize United States economic interests through agricultural trade; and

(6) provide for the consideration of United States agricultural trade interests in the design of national fiscal and monetary policy that may foster continued strength in the value of the dollar.

Sec. 1122.[43] * * * [Repealed—1996]

"(A) to promote the export of United States agricultural commodities and the products thereof; and

"(B) to expand export markets for United States agricultural commodities and the products thereof;

"(2) develop and recommend to the President national agricultural policies to foster and promote the United States agricultural industry and to maintain and increase strength of this vitally important sector of the United States economy; and

"(3)(A) appraise the various programs and activities of the Federal Government, as they affect the United States agricultural industry, for the purpose of determining the extent to which such programs and activities are contributing or not contributing to such industry; and

"(B) make recommendations to the President and Congress with respect to the effectiveness of such programs and activities in contributing to such industry.".

[42] 7 U.S.C. 1736p. Sec. 267 of Public Law 104–127 (110 Stat. 974) struck out subsec. (a), struck out subsec. designation "(b)", struck out paras. (1) through (4) in former subsec. (b), and inserted new paras. (1) through (4).

Subsec. (a) and paras. (1) through (4) of former subsec. (b) read as follows:

"(a) Congress finds that—

"(1) the volume and value of United States agricultural exports have significantly declined in recent years as a result of unfair foreign competition and the high value of the dollar;

"(2) this decline has been exacerbated by the lack of uniform and coherent objectives in United States agricultural trade policy and the absence of direction and coordination in trade policy formulation;

"(3) agricultural interests have been under-represented in councils of government responsible for determining economic policy that has contributed to a strengthening of the United States dollar;

"(4) foreign policy objectives of the United States have been introduced into the trade policy process in a manner injurious to the goal of maximizing United States economic interests through trade; and

"(5) the achievement of that goal is in the best interests of the United States.

"(b) It is hereby declared to be the agricultural trade policy of the United States to—

"(1) provide through all means possible agricultural commodities and their products for export at competitive prices, with full assurance of quality and reliability of supply;

"(2) support the principle of free trade and the promotion of fairer trade in agricultural commodities and their products;

"(3) cooperate fully in all efforts to negotiate with foreign countries reductions in current barriers to fair trade;

"(4) counter aggressively unfair foreign trade practices using all available means, including export restitution, export bonus programs, and, if necessary, restrictions on United States imports of foreign agricultural commodities and their products, as a means to encourage fairer trade;".

[43] Formerly at 7 U.S.C. 1736q. Sec. 268 of Public Law 104–127 (110 Stat. 975) repealed sec. 1122, which had stated the sense of the Congress regarding trade liberalization.

SEC. 1123.[44] TRADE NEGOTIATIONS POLICY.

(a) FINDINGS.—Congress finds that—

(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

(2) exports of United States agricultural products accounted for $54,000,000,000 in 1995, contributing a net $24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

(B) developing common rules for the application of sanitary and phytosanitary restrictions;

that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use nontransparent and discriminatory pricing as a hidden de facto export subsidy;

(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

(b) GOALS OF THE UNITED STATES IN AGRICULTURAL TRADE NEGOTIATIONS.—The objectives of the United States with respect to future negotiations on agricultural trade include—

[44] 7 U.S.C. 1736r. Sec. 269 of Public Law 104–127 (110 Stat. 975) amended and restated sec. 1123. The section previously had authorized the Secretary of Agriculture to confer with representatives of other major agricultural producing countries and initiate and pursue agricultural trade consultations among major agricultural producing countries.

(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to levels that are no greater than those available in the United States;

(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

(4) encouraging government policies that avoid price-depressing surpluses.

Sec. 1124.[45] * * * [Repealed—1990]

Sec. 1125.[46] * * * [Repealed—1990]

COOPERATOR MARKET DEVELOPMENT PROGRAM

Sec. 1126.[47] (a) It is the sense of Congress that the cooperator market development program of the Foreign Agricultural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable.

(b) The cooperator market development program shall be exempt from the requirements of Circular A 110 issued by the Office of Management and Budget.

(c) * * *

DEVELOPMENT AND EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES

Sec. 1127.[48] * * * [Repealed—1990]

POULTRY, BEEF AND PORK MEATS AND MEAT-FOOD PRODUCTS, EQUITABLE TREATMENT

Sec. 1128.[49] * * * [Repealed—1990]

PILOT BARTER PROGRAM FOR EXCHANGE OF AGRICULTURAL COMMODITIES FOR STRATEGIC MATERIALS

Sec. 1129.[50] * * *

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[45] Formerly at 7 U.S.C. 1736s. Sec. 1124, relating to targeted export assistance, was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[46] Formerly at 7 U.S.C. 1736t. Sec. 1125, relating to short-term export credit, was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[47] 7 U.S.C. 1736u.

[48] Sec. 1127 (7 U.S.C. 1736v) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[49] Sec. 1128 (7 U.S.C. 1736w) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[50] Sec. 1129 amended sec. 416 of the Agricultural Act of 1949.

AGRICULTURAL ATTACHE REPORTS

Sec. 1132.[51] * * * [Repealed—1990]

CONTRACT SANCTITY AND PRODUCER EMBARGO PROTECTION

Sec. 1133.[52] (a) It is hereby declared to be the policy of the United States—

(1) to foster and encourage the export of agricultural commodities and the products of such commodities;

(2) not to restrict or limit the export of such commodities and products except under the most compelling circumstances;

(3) that any prohibition or limitation on the export of such commodities or products should be imposed only in time of a national emergency declared by the President under the Export Administration Act; and

(4) that contracts for the export of such commodities or products entered into before the imposition of any prohibition or limitation on the export of such commodities or products should not be abrogated.

STUDY TO REDUCE FOREIGN EXCHANGE RISK

Sec. 1134. (a) The Secretary of Agriculture shall conduct a study to determine the feasibility, practicability and cost of implementing a program to reduce the risk of foreign exchange fluctuations that is incurred by the purchasers of United States agricultural exports under United States export credit promotion programs. The purpose of the study is to examine whether the GSM–102 program and all other United States export credit initiatives relating to agricultural exports would be enhanced by the United States assuming the foreign exchange risk of the buyer which resulted from a rise in the value of the United States dollar compared to the trade-weighted index of the dollar. The index referred to is the "trade-weighted index" published by the Department of Commerce as a measurement of the relative buying power of the dollar compared to the currencies of nations trading with the United States. The elements of the program to be considered in this study would include the following:

(1) On the date a foreign buyer receives GSM–102 or other credit for purposes of purchasing United States agricultural products, the maximum loan repayment exchange rate would be tied to the trade-weighted value of the United States dollar on the same date.

(2) If in the future the United States dollar gains in strength (a higher trade-weighted index), the buyer would continue to repay the loan at the lower value fixed at the time the GSM–102 credit was extended.

(3) If the United States dollar falls in value during the term of the repayment period, the foreign buyer could calculate his repayment on the lower dollar value.

[51] Sec. 1132 (7 U.S.C. 1736x) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[52] 7 U.S.C. 1736y.

(b) Not later than six months after the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle C—Export Transportation of Agricultural Commodities

FINDINGS AND DECLARATIONS

Sec. 1141. (a) The Congress finds and declares—

(1) that a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and national security objectives of our Nation;

(2) that both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

(3) that increased agricultural exports and the utilization of United States merchant vessels contribute positively to the United States balance of trade and generate employment opportunities in the United States.

(b) It is therefore declared to be the purpose and policy of the Congress in this subtitle—

(1) to enable the Department of Agriculture to plan its export programs effectively, by clarifying the ocean transportation requirements applicable to such programs;

(2) to take immediate and positive steps to promote the growth of the cargo carrying capacity of the United States merchant marine;

(3) to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports;

(4) to improve the efficiency of administration of both the commodity purchasing and selling and the ocean transportation activities associated with export programs sponsored by the Department of Agriculture;

(5) to stimulate and promote both the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

(6) to provide in the Merchant Marine Act, 1936, for the appropriate disposition of these findings and purposes.

EXEMPTION OF CERTAIN AGRICULTURAL EXPORTS FROM THE REQUIREMENTS OF THE CARGO PREFERENCE LAWS

Sec. 1142.[53] * * *

EFFECT ON OTHER LAWS

Sec. 1143. This subtitle shall not be construed as modifying in any manner the provisions of section 4(b)(8) of the Food for Peace

[53] Sec. 1142 amended the Merchant Marine Act, 1936 (46 U.S.C. 1101 *et seq.*).

Act of 1966 (7 U.S.C. 1707a(b)(8)) or chapter 5 of title 5, United States Code.

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Subtitle E—Trade Practices

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ASSESSMENT OF EXPORT DISPLACEMENT

Sec. 1162.[54] * * * [Repealed—1990]

EXPORT SALES OF DAIRY PRODUCTS

Sec. 1163.[55] (a)[56] In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the disposition of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of world trade.

(b) Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

(c) Through September 30, 1995,[57] the Secretary shall report semi-annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.

Sec. 1164.[58] * * * [Repealed—1996]

THAI RICE

Sec. 1165.[59] * * * [Repealed—1990]

BARTER OF AGRICULTURAL COMMODITIES FOR STRATEGIC AND CRITICAL MATERIALS

Sec. 1167.[60] * * * [Repealed—1990]

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[54] Sec. 1162 (7 U.S.C. 1736z) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[55] 7 U.S.C. 1731 note.

[56] Sec. 411(c) of Public Law 103–465 (108 Stat. 4963) amended and restated subsec. (a). It previously read as follows, as amended by sec. 111 of Public Law 101–624 (104 Stat. 3380), and by sec. 107(1) of Public Law 100–435 (102 Stat. 1651):

"(a) In each of the fiscal years 1986 through 1995, the Secretary of Agriculture shall sell for export, at such prices as the Secretary determines appropriate, not less than 150,000 metric tons of dairy products owned by the Commodity Credit Corporation, of which not less than 100,000 metric tons shall be butter and not less than 20,000 metric tons shall be cheese, if that disposition of such commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and normal patterns of commercial trade.".

[57] Sec. 111 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3380) struck out "1990" and inserted in lieu thereof "1995". Previously, sec. 107(2) of Public Law 100–435 (102 Stat. 1651) struck out "1988" and inserted "1990".

[58] Sec. 270 of Public Law 104–127 (110 Stat. 976) repealed sec. 1164, relating to unfair trade practices.

[59] Sec. 1165 (7 U.S.C. 1736 note) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[60] Sec. 1167 (7 U.S.C. 1736aa) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

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TITLE XIV—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Subtitle A—General Provisions

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AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND

Sec. 1420. (a) The Secretary of Agriculture shall undertake discussions with representatives of the Government of Ireland that may lead to an agreement that will provide for the development of a program between the United States and Ireland whereby there will be—

(1) a greater exchange of—

(A) agricultural scientific and educational information, techniques, and data;

(B) agricultural marketing information, techniques, and data; and

(C) agricultural producer, student, teacher, agribusiness (private and cooperative) personnel; and

(2) the fostering of joint investment ventures, cooperative research, and the expansion of United States trade with Ireland.

(b) The Secretary shall periodically report to the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate to keep such Committees apprised of the progress and accomplishments, and such other information as the Secretary considers appropriate, with regard to the development of such program.

* * * * * * *

i. President's Emergency Food Assistance Act of 1984

Partial text of Public Law 98–473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837 at 2194, approved October 12, 1984

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1985, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE III—PRESIDENT'S EMERGENCY FOOD ASSISTANCE ACT OF 1984

SHORT TITLE

Sec. 301.[1] This title may be cited as the "President's Emergency Food Assistance Act of 1984".

PART A—PRESIDENT'S EMERGENCY FUND

FINDINGS

Sec. 302.[2] The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crisis are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

ESTABLISHMENT OF THE FUND

Sec. 303.[3] (a) There is hereby established the President's Emergency Food Assistance Fund (hereafter in this title referred to as the "Fund"). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in

[1] 7 U.S.C. 1728 note.
[2] 7 U.S.C. 1728.
[3] 7 U.S.C. 1728a.

accordance with the provisions of this part, and on such terms and conditions as he may determine, assistance from the Fund for the purpose of alleviating the human suffering of peoples outside the United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate.

(b) Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of food assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c) There are authorized to be appropriated to the President $50,000,000 each for fiscal year 1985 and fiscal year 1986 to carry out the purposes of this title, to remain available until expended.

(d) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this title.

REPORTS

Sec. 304.[4] Not later than December 31 of each year, the President shall submit a comprehensive report to the appropriate committees of Congress detailing all activities carried out under the authority of this title during the previous fiscal year.

PART B—FOOD FOR PEACE PROGRAM

TRANSPORTATION AND STORAGE

Sec. 305.[5] * * *

[4] 7 U.S.C. 1728b.

[5] Sec. 305 amended sec. 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723).

j. Agricultural Exports

Partial text of Public Law 98–258 [Agricultural Programs Adjustment Act of 1984, H.R. 4072], 98 Stat. 130, approved April 10, 1984

AN ACT To make adjustments in the commodity programs for wheat, feed grains, upland cotton, and rice, to provide agricultural credit assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Programs Adjustment Act of 1984".

* * * * * * *

TITLE V—AGRICULTURAL EXPORTS

EXPORT ASSISTANCE

Sec. 501. It is the sense of Congress that the President should implement, as soon as practicable after the enactment of this Act, the actions, proposed by the Administration to complement the provisions of this Act, to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and products thereof, as follows—

(1) for the fiscal year ending September 30, 1984, the President will—

(A) request congressional approval for the appropriation of funds in the amount of $150,000,000, in addition to the President's February 1984 request for a supplemental appropriation of $90,000,000, to carry out programs of assistance under titles I, II, and III of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480);[1] and

(B) direct the Secretary of Agriculture to increase funding, over the current budgeted level, for the Export Credit Guarantee Program (GSM–102), carried out through the Commodity Credit Corporation, by not less than $500,000,000; and

(2) for the fiscal year ending September 30, 1985, the President will—

(A) request congressional approval for the appropriation of funds in the amount of at least $175,000,000, in addition to the current funding level contained in the President's budget for that year, to carry out programs of assistance under titles I, II, and III of Public Law 480;

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[1] Second Supplemental Appropriations Act, 1984, (Public Law 98–396; 98 Stat. 1369 at 1371) provided:

"For an additional amount for 'Public Law 480', for financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms, pursuant to titles I and III of said Act, $175,000,000, of which $175,000,000 is hereby appropriated, to remain available until September 30, 1985.".

(B) direct the Secretary of Agriculture to increase funding, over the levels contained in the President's budget for that year or otherwise required by law, by not less than $1,100,000,000 for the Export Credit Guarantee Program (GSM–102) and by not less than $100,000,000 for direct export credit programs carried out through the Commodity Credit Corporation (GSM–5, GSM–201, and GSM–301); and

(C) request or use an additional amount of $50,000,000 (over the amounts specified in clauses (2)(A) and (2)(B)) either for increased funding for direct export credit programs carried out through the Commodity Credit Corporation or for additional assistance under Public Law 480, in such proportions as determined necessary and appropriate by the President.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS; ACQUISITION AND DONATION OF ULTRA-HIGH TEMPERATURE PROCESSED MILK

Sec. 502.[2] *** * ***

[2] Sec. 502 amended sec. 416 of the Agricultural Act of 1949 by adding new subsections (b) and (c).

k. Food and Agriculture Act of 1977

Partial text of Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977

AN ACT To provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Food and Agriculture Act of 1977".

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TITLE XII—PUBLIC LAW 480

NOTE.—Sections 1201–1208 of Title XII amend the Agricultural Trade Development and Assistance Act of 1954.

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USE OF NONPRICE-SUPPORTED COMMODITIES UNDER PUBLIC LAW 480

Sec. 1209.[1] It is the sense of Congress that there be no discrimination between "price-supported" and "nonprice-supported" commodities in the programing of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480).

SPECIAL TASK FORCE ON THE OPERATION OF PUBLIC LAW 480

Sec. 1210.[1] (a) It is the sense of Congress that attention be given to handling, storage, transportation, and administrative procedures in order to make improvements in the operation of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480). Toward this objective, the Secretary of Agriculture shall appoint a special task force to review and report upon the administration of the Act.

(b) Such review shall include, but not be limited to, organizational arrangements for the administration of Public Law 480, or parts thereof, title I allocation criteria and procedures, quality control, including handling and storage through the first stage of distribution in the recipient country, and regulation of businesses and organizations to which services are contracted under Public Law 480.

(c) Not later than eighteen months following enactment of this Act, the Secretary of Agriculture shall transmit to Congress the re-

[1] 7 U.S.C. 1691 note.

port of such task force, along with administrative actions the Secretary has taken or intends to take as a result of such report, and recommendations, if any, for legislative changes.

l. Extension of Agricultural Trade Development and Assistance Act of 1954, as amended

Partial text of Public Law 85–931 [S. 3420], 72 Stat. 1790, approved September 6, 1958; as amended by Public Law 87–703 [H.R. 12391], 76 Stat. 605 at 611, approved September 27, 1962; and by Public Law 89–808 [Food for Peace Act of 1966, H.R. 14929], 80 Stat. 1526 at 1538, approved November 11, 1966

AN ACT To extend and amend the Agricultural Trade Development and Assistance Act of 1954.

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

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NOTE.—Except for secs. 8 and 9, Public Law 85–931 consists of amendments to the Agricultural Trade Development and Assistance Act of 1954 and the Agricultural Act of 1956.

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Sec. 8.[1] In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended, extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely[2] from upland or long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act as long as cotton is in surplus supply in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act.[3]

Sec. 9.[4] Notwithstanding any other provision of law 6 those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 32 of the Act of August 24, 1935,

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[1] 7 U.S.C. 1601 note.

[2] The word "entirely" and the words "in the same manner as any other agricultural commodity or product is made available" were added by sec. 3(d) of Public Law 89–808 (Food for Peace Act of 1966).

[3] Sec. 3(d) of Public Law 89–808 inserted a period in lieu of a colon and struck out a proviso, which read as follows: "*Provided*, That that portion of sales price of such products which is financed as a sale for foreign currency under title I of the Act shall be limited to the estimated portion of the sales price of such products attributable to the raw cotton content of such products".

[4] 7 U.S.C. 1431b.

as amended (7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431).[5]

[5] Sec. 3(a) of Public Law 89–808 struck out the symbol "(1)" after the word "law"; inserted a period in lieu of a semicolon, and struck out the language after the semicolon, which read as follows: "and (2) the Commodity Credit Corporation is authorized to purchase products of oil seeds, and edible oils and fats and the products thereof in such form as may be needed for donation abroad as provided in the following sentence. Any such commodities or products if purchased shall be donated to nonprofit voluntary agencies registered with the Department of State, other appropriate agencies of the Federal Government or international organizations for use in the assistance of needy persons and in nonprofit school lunch programs outside the United States. Commodity Credit Corporation may incur such additional costs with respect to such oil as it is authorized to incur with respect to food commodities disposed of under section 416 of the Agricultural Act of 1949.".

m. Implementation of the Enterprise for the Americas Initiative

Executive Order 12757, March 19, 1991, 56 F.R. 12107, 7 U.S.C. 1738 note; as amended by Executive Order 12823, December 3, 1992, 57 F.R. 57645

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 ("ATDA Act"),[1] as amended by Public law 101–624, Public Law 102–237, and the Foreign Assistance Act of 1961 ("FAA"), as amended by Public Law 102–549,[2] it is hereby ordered as follows:

Section 1. The functions vested in the President by section 603, 604, 611, and 614 of the ATDA Act and sections 703 and 704 of the FAA[3] are delegated to the Secretary of the Treasury ("Secretary"), who shall exercise such functions in accordance with recommendations of the National Advisory Council on International Monetary and Financial Policies ("Council"), as established by Executive Order No. 11269 of February 14, 1966; except that, with respect to the eligibility determinations required by section 703(a)(1), (2), (3), and (4) of the FAA, the Secretary of the Treasury shall act in accordance with the recommendations of the Secretary of State.[4] The Secretary of State, when necessary, shall report to the Council regarding the need to review the implementation of environmental programs pursuant to section 611 of the ATDA Act.[5]

Sec. 2. (a) For purposes of section 1 of this order only, the membership of the Council shall be expanded to include the following: the Secretary of Agriculture, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers,the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency.

(b) Whenever matters being considered by the Council may be of interest to an agency not represented on the Council, the chairperson may invite a representative of such agency to participate in meetings and deliberations of the Council.

(c) In the event of a disagreement among agencies represented on the Council, the Secretary shall refer the issue to the appropriate Cabinet-level body designated by the President.

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[1] The text in parentheses was amended by sec. 1(a)(1) of Executive Order 12823 (57 F.R. 57645). It formerly read "Act".

[2] Sec. 1(a)(2) of Executive Order 12823 (57 F.R. 57645) struck out "section 1512 of Public Law 101–624," and inserted in lieu thereof "Public law 101–624, Public Law 102–237, and the Foreign Assistance Act of 1961 ("FAA"), as amended by Public Law 102–549".

[3] Sec. 1(b)(1) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act and sections 703 and 704 of the FAA".

[4] Sec. 1(b)(2) of Executive Order 12823 (57 F.R. 57645) inserted "; except that, with respect to the eligibility determinations required by section 703(a)(1), (2), (3), and (4) of the FAA, the Secretary of the Treasury shall act in accordance with the recommendations of the Secretary of State" after "1966".

[5] Sec. 1(b)(3) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act".

Sec. 3. (a) The functions vested in the President by section 607 of the ATDA Act[6] are delegated to the Secretary of State, in consultation with the Department of the Treasury, the Department of Agriculture, the Department of Commerce, the Council on Environmental Quality, the Environmental Protection Agency, the Agency for International Development, and any other agency determined by the Secretary of State to have an interest in an environmental framework agreement.

(b) Pursuant to section 610(c) of the ATDA Act and section 709(1) of the FAA,[7] the Enterprise for the Americas Board[8] shall also advise the Secretary of State on the negotiations of the environmental framework agreements and the Americas Framework Agreements.[9]

(c) The Secretary of State shall ensure that the elements and requirements for the Administering Bodies established in section 607(c) of the ATDA Act and section 708(c) of the FAA[10] shall be included in the environmental framework agreements and the Americas Framework Agreements.[11]

Sec. 4. (a) The six[12] U.S. Government members of the Enterprise for the Americas Board[13] ("Board") established by section 610 of the ATDA Act[14] shall be representatives from the Department of State, the Department of the Treasury, the Department of Agriculture,[15] the Environmental Protection Agency, the Agency for International Development, and the Inter-American Foundation.

(b) The Department of Commerce,[16] and other appropriate agencies may each send representatives to the meetings of the Board, and such representatives may participate in the activities of the Board.

(c) The representative from the Department of the Treasury shall be the chairperson of the Board. The representative from the Department of State shall be the vice chairman of the Board. The representative from the Environmental Protection Agency shall serve as secretary of the Board.

(1) The chairperson shall be responsible for presiding over the meetings of the Board, ensuring that the views of all other participants are taken into account, and coordinating with other appropriate agencies in assisting the Board in its review

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[6] Sec. 1(c) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act".

[7] Sec. 1(d)(1) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act and section 709(1) of the FAA".

[8] Sec. 1(d)(2) of Executive Order 12823 (57 F.R. 57645) struck out "the Environment for the Americas Board" and inserted in lieu thereof "the Enterprise for the Americas Board".

[9] Sec. 1(d)(3) of Executive Order 12823 (57 F.R. 57645) inserted "and the Americas Framework Agreements" after "agreements".

[10] Sec. 1(e)(1) of Executive Order 12823 (57 F.R. 57645) struck out "Act" and inserted in lieu thereof "ATDA Act and section 708(c) of the FAA".

[11] Sec. 1(e)(2) of Executive Order 12823 (57 F.R. 57645) inserted "and the Americas Framework Agreements" after "agreements".

[12] Sec. 1(f)(1) of Executive Order 12823 (57 F.R. 57645) struck out "five" and inserted in lieu thereof "six".

[13] Sec. 1(f)(2) of Executive Order 12823 (57 F.R. 57645) struck out"Environment for the Americas Board" and inserted in lieu thereof "Enterprise for the Americas Board".

[14] Sec. 1(f)(3) of Executive Order 12823 (57 F.R. 57645) struck out"Act" and inserted in lieu thereof "ATDA Act".

[15] Sec. 1(f)(4) of Executive Order 12823 (57 F.R. 57646) inserted "the Department of Agriculture,".

[16] Sec. 1(g) of Executive Order 12823 (57 F.R. 57646) struck out "the Department of Agriculture, " here.

of the fiscal audits conducted pursuant to section 607(c)(4) of the ATDA Act and section 708(c)(3)(C) of the FAA.[17]

(2) The vice chairperson shall be responsible for serving as liaison between the Board and local governments, local nongovernmental organizations, and the local Administering Bodies in Latin America and the Caribbean, and for coordinating the international activities related to programs funded under the ATDA Act and Part IV of the FAA.[18]

(3) The secretary of the Board shall be responsible for coordinating the preparation of materials for Board discussion, including the technical reviews of the annual programs and reports required to be submitted to the Board under section 607 (c)(5) and (c)(6) of the ATDA Act and section 708(c)(3) (E) and (F) of the FAA,[19] and for preparing official minutes of Board discussions.

(d) The five[20] private nongovernmental organization members of the Board shall be chosen by the President.

Sec. 5. No new agreement under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended,[21] and no new credit agreement under the Food for Progress Act of 1985, as amended,[22] shall be entered into with any country that is in default with respect to the payment of principal or interest on any obligation issued pursuant to section 604 of the ATDA Act[23] unless such country meets its obligations or unless the President so authorizes.

Sec. 6. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

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[17] Sec. 1(h) of Executive Order 12823 (57 F.R. 57646) struck out "Act" and inserted in lieu thereof "ATDA Act and section 708(c)(3)(C) of the FAA".

[18] Sec. 1(i) of Executive Order 12823 (57 F.R. 57646) struck out "Act" and inserted in lieu thereof "ATDA Act and Part IV of the FAA".

[19] Sec. 1(j) of Executive Order 12823 (57 F.R. 57646) struck out "Act" and inserted in lieu thereof "ATDA Act and section 708(c)(3) (E) and (F) of the FAA".

[20] Sec. 1(k) of Executive Order 12823 (57 F.R. 57646) struck out "four" and inserted in lieu thereof "five".

[21] Sec. 1(l)(1) of Executive Order 12823 (57 F.R. 57646) struck out "by section 1512 of Public Law 101–624" before the comma.

[22] Sec. 1(l)(2) of Executive Order 12823 (57 F.R. 57646) inserted ", as amended," after "1985".

[23] Sec. 1(l)(3) of Executive Order 12823 (57 F.R. 57646) struck out "section 604 of the Act" and inserted in lieu thereof "section 604 of the ATDA Act".

n. Implementation of the Agricultural Trade Development and Assistance Act of 1954, as Amended, and the Food for Progress Act of 1985, as Amended

Executive Order 12752, February 25, 1991, 56 F.R. 8255, 7 U.S.C. 1691 note; amended by Executive Order 13044, April 18, 1997, 62 F.R. 19665

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954, as amended by Public Law 101–624 ("Agricultural Trade Development Act"), the Food for Progress Act of 1985, as amended by Public Law 101–624 ("Food for Progress Act"), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *Establishment of Programs.* There is hereby established:

(a) a program under title I of the Agricultural Trade Development Act to provide for the sale of agricultural commodities to developing countries and private entities.[1] Such program shall be implemented by the Secretary of Agriculture (hereafter referred to as the "Secretary").

(b) a program under title II of the Agricultural Trade Development Act to provide for the donation of agricultural commodities to foreign countries. Such program shall be implemented by the Administrator of the Agency for International Development (hereafter referred to as the "Administrator").

(c) a program under title III of the Agricultural Trade Development Act to provide for the donation of agricultural commodities to least developed countries. Such program shall be implemented by the Administrator.

Sec. 2. *International Negotiations and Accounting for Foreign Currencies.* (a) The Secretary with respect to title I, and the Administrator with respect to titles II and III of the Agricultural Trade Development Act, shall negotiate and execute agreements under the Agricultural Trade Development Act in accord with section 112b of title I of the United States Code and applicable regulations and procedures of the Department of State.

(b)(1) Foreign currencies that accrue to the United States under titles I and III of the Agricultural Trade Development Act may be used for the purposes set forth in section 014 and section 306 of that Act, respectively, in amounts consistent with applicable provisions of law and agreements. Such foreign currencies shall be subject to regulations of the Department of the Treasury governing the purchase, custody, deposit, transfer, and sale of foreign currencies received under the Agricultural Trade Development Act.

[1] Executive Order 13044 (April 18, 1997; 62 F.R. 19665) struck out "developing countries" and inserted in lieu thereof "developing countries and private entities".

(2) The Director of the Office of Management and Budget (hereafter referred to as the "Director") shall determine the amount of foreign currencies to be used for the purposes of section 104(c)(8) of the Agricultural Trade Development Act, and such purposes shall be carried out by the agencies with authority to pay the obligations abroad. The purposes of the remaining paragraphs of section 104(c) of that Act shall be carried out by the Department of Agriculture, utilizing where appropriate, the expertise of other agencies.

(3) The Secretary and Administrator shall transmit the reports required by the provisions of paragraph 5 of the Act of August 13, 1957 (71 Stat. 345; 7 U.S.C. 1704a), as related to the use of foreign currencies accruing under title I and title III of the Agricultural Trade Development Act, respectively.

Sec. 3. *Policy Coordination*. (a) To ensure policy coordination of assistance provided under the Agricultural Trade Development Act and the Food for Progress Act, there is hereby established a Food Assistance Policy Council (hereafter referred to as the "Council").

(b) The Council will include senior representatives of the Department of Agriculture, the Agency for International Development, the Department of State, and the Office of Management and Budget. Meetings of the Council shall be called by the Secretary or his designee at the request of any senior representative of the Council.

(c) The Council shall advise the President on appropriate policies under the Agricultural Trade Development Act and the Food for Progress Act and shall coordinate decisions on allocations and other policy issues, as well as prepare the report required by section 407(g)(1) of the Agricultural Trade Development Act.

(d) As necessary for effective coordination, the Council shall provide its advice to the President through the appropriate Cabinet-level body.

Sec. 4.[2] *Delegation of Responsibilities*. (a) The function conferred upon the President in section 403(j) of the Agricultural Trade Development Act is hereby delegated to the Secretary of State.

(b) The functions conferred upon the President by section 411 of the Agricultural Trade Development Act are hereby delegated to the Secretary, in consultation with the Council and the Department of the Treasury.

(c) The functions conferred upon the President by section 412(c) of the Agricultural Trade Development Act are hereby delegated to the Director, who shall consult with the Council on these functions.

(d) The functions conferred upon the President by title V of the Agricultural Trade Development Act are hereby delegated to the Administrator.

(e) The functions conferred upon the President by the Food for Progress Act, as amended, are hereby delegated to the Secretary.

Sec. 5. *Regulatory Review*. Policies, regulations, and analyses required by this Executive order shall be fully consistent with the

[2] Executive Order 13044 (April 18, 1997; 62 F.R. 19665) struck out paras. (a) and (c) in sec. 4, and redesignated the remaining subsections as subsecs. (a) through (e). Subsec. (a) formerly provided that the consultation required by section 401(a) of the Agricultural Trade Development Act was to be undertaken through the National Advisory Council. Subsec. (c) formerly provided that the function conferred upon the President by section 407(h) of the Agricultural Trade Development Act was to be delegated to the Administrator.

standards and criteria, analyses and procedures set forth in Executive Order Nos. 12291 and 12498.

Sec. 6. *Revocations*. Executive Order No. 12220 of June 27, 1980, and Executive Order No. 12583 of February 19, 1987, are revoked.

2. Agricultural Trade

a. Agricultural Competitiveness and Trade Act of 1988

Partial text of Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat 1107 at 1388, approved August 23, 1988, amended by Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To enhance the competitiveness of American industry, and for other purposes.

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

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TITLE IV—AGRICULTURAL TRADE

SEC. 4001.[1] SHORT TITLE.

This title may be cited as the "Agricultural Competitiveness and Trade Act of 1988".

SUBTITLE A—FINDINGS, POLICY, AND PURPOSE

SEC. 4101.[2] FINDINGS.

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from $43,800,000,000 in 1981 to $27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;

(6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—

(A) the addition of new exporting nations;

(B) innovations in agricultural technology;

[1] 7 U.S.C. 5201 note.
[2] 7 U.S.C. 5201.

(C) increased use of export subsidies designed to lower the price of commodities on the world market;

(D) the existence of barriers to agricultural trade;

(E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and

(F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;

(7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;

(8) in order to increase agricultural exports and improve prices for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(9) greater use should be made by the Secretary of Agriculture of the authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) increase livestock production to enhance the demand for United States feed grains;

(10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;

(11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

SEC. 4102.[3] POLICY.

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 1101(b) of this Act to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

SEC. 4103.[4] PURPOSE.

It is the purpose of this title—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

SUBTITLE B—AGRICULTURAL TRADE INITIATIVES

PART 1—GENERAL PROVISIONS

SEC. 4201.[5] LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS. * * * [Repealed—1990]

SEC. 4202.[5] TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS * * * [Repealed—1990]

SEC. 4203.[6] JOINT DEVELOPMENT ASSISTANCE AGREEMENTS WITH CERTAIN TRADING PARTNERS.

(a) DEVELOPMENT OF PLAN.—With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take into consideration the agricultural economy of such country, the na-

[3] 7 U.S.C. 5202.

[4] 7 U.S.C. 5203.

[5] Sec. 1571 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702) repealed secs. 4201, 4202, 4205, 4206, 4211, 4212, 4213, 4305, and 4311 (7 U.S.C. 5211, 5212, 5215, 5216, 5231, 5232, 5233, 1736t note, and 1691 note, respectively) of this Act.

[6] 7 U.S.C. 5213.

ture and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) AGREEMENT.—The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries.

SEC. 4204.[7] REORGANIZATION EVALUATION.

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress, together with the views and recommendations of the private sector advisory committee.

SEC. 4205.[5] CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS. * * * [Repealed—1990]

SEC. 4206.[5] ESTABLISHMENT OF TRADE ASSISTANCE OFFICE. * * * [Repealed—1990]

PART 2—FOREIGN AGRICULTURAL SERVICE

SEC. 4211.[5] PERSONNEL OF THE SERVICE. * * * [Repealed—1990]

SEC. 4212.[5] AGRICULTURAL ATTACHE EDUCATIONAL PROGRAM. * * * [Repealed—1990]

SEC. 4213.[5] PERSONNEL RESOURCE TIME. * * * [Repealed—1990]

SEC. 4214.[8] COOPERATOR ORGANIZATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

(b) COMMODITIES FOR COOPERATOR ORGANIZATIONS.—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) RELATION TO FUNDS.—Commodities made available to cooperator organizations under this section shall be in addition to,

[7] 7 U.S.C. 5214.
[8] 7 U.S.C. 5234.

and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) CONFLICTS OF INTEREST.—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) EVALUATION.—It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

SEC. 4215.[9] AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, $20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Service;

(3) enhancement of the Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and

(5) developing markets for value-added beef, pork, and poultry products.

SUBTITLE C—EXISTING AGRICULTURAL TRADE PROGRAMS

SEC. 4301.[10] TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT. * * * [Repealed—1996]

SEC. 4302.[11] PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED.

(a) SUNFLOWER SEEDS.—If producers are permitted to repay loans for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of sunflower seeds through loans and purchases for the 1990 crop of sunflowers in accordance with section 201(l) of the Agricultural Act of 1949.

(b) COTTONSEED.—If a producer is permitted to repay a loan for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of the 1990 crop of cottonseed at such level as the Secretary determines will cause cottonseed to compete on equal terms with soybeans on the market. The Secretary shall carry out this subsection using the funds, facilities, and authorities of the Commodity Credit Corporation.

(c) DISCONTINUANCE.—If the marketing loan program for the 1990 crop of soybeans is discontinued under section 4301(b)(3) of

[9] 7 U.S.C. 5235.

[10] Formerly at 7 U.S.C. 1446 note. Sec. 263(b) of Public Law 104–127 (110 Stat. 974) repealed sec. 4301.

[11] 7 U.S.C. 1446 note.

this Act, the Secretary shall discontinue the price support programs for sunflower seeds and cottonseed required by this section.

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SEC. 4305.[5] EXPORT CREDIT GUARANTEE PROGRAM. * * * [Repealed—1990]

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SEC. 4309.[12] BARTER OF AGRICULTURAL COMMODITIES.

In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.

SEC. 4310.[13] MINIMUM LEVEL OF FOOD ASSISTANCE.

(a) ANNUAL MINIMUM.—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

(b) DEFINITION.—For purposes of this section, the term "foreign economic assistance" includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.

SEC. 4311.[5] FOOD AID AND MARKET DEVELOPMENT. * * * [Repealed—1990]

SUBTITLE D—WOOD AND WOOD PRODUCTS

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SEC. 4404.[14] USE OF DEPARTMENT OF AGRICULTURE PROGRAMS.

The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.

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[12] 7 U.S.C. 1431 note.
[13] 7 U.S.C. 1691 note.
[14] 7 U.S.C. 1736t note.

SUBTITLE E—STUDIES AND REPORTS

SEC. 4501. STUDY OF CANADIAN WHEAT IMPORT LICENSING REQUIREMENTS.

(a) FINDINGS.—Congress finds that—

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat (except packaged wheat products for retail sale) from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat and wheat products to prove that the wheat or wheat products to be imported are not readily available in Canada before issuance of an import license, and therefore, for all practical purposes, such licenses are not granted by the Canadian Wheat Board;

(3) the licensing requirements of the Canadian Wheat Board's import licensing program result in a trade barrier on the importation of United States wheat and wheat products; and

(4) Canada is a member of the General Agreement on Tariffs and Trade and, under such agreement, member countries should, in general, eliminate import licensing programs that operate as nontariff trade barriers.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the Canadian Wheat Board's import licensing program to—

(1) assess the effect of the Canadian Wheat Board's import licensing program referred to in subsection (a) on wheat producers, processors, and exporters in the United States; and

(2) determine—

(A) the nature and extent of the licensing requirements of the Canadian Wheat Board's import licensing program; and

(B) the estimated effect of the Canadian Wheat Board's import licensing program in reducing exports of United States wheat and wheat products to Canada.

(c) SUBMISSION OF RESULTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the results of the study conducted under subsection (b) to the United States Trade Representative.

(d) CONSULTATION WITH CONGRESS.—Not later than 90 days after the results of the study are submitted, the Secretary and the United States Trade Representative shall consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate on the status of efforts to negotiate the elimination of such Canadian licensing requirements.

SEC. 4502.[15] IMPORT INVENTORY.

(a) COMPILATION AND REPORT ON IMPORTS.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agen-

[15] 7 U.S.C. 626.

cies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) COMPILATION AND REPORT ON CONSUMPTION.—The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

(c) ISSUING OF DATA.—The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after the date of enactment of this Act.

SEC. 4503. STUDY RELATING TO HONEY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4504. STUDY OF DAIRY IMPORT QUOTAS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct a study to determine whether, and to what extent, the price support program for milk established under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as a result of multilateral trade negotiations, including negotiations under the General Agreement on Tariffs and Trade. In conducting this study, the Secretary shall assess the likelihood of other nations' agreeing to reduce or eliminate their domestic dairy price stabilization, export subsidization, or import control programs in such multilateral negotiations.

(b) REPORT.—The Secretary shall submit a report describing the results of the study, together with any recommendations, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4505. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to the Com-

mittee on Agriculture and the Committee on Foreign Affairs[16] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries—

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products;

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

SEC. 4506.[17] IMPORTED MEAT, POULTRY PRODUCTS, EGGS, AND EGG PRODUCTS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to Congress—

(1) specifying the planned distribution, in fiscal years 1988 and 1989, of the resources of the Department of Agriculture available for sampling imported covered products to ensure compliance with the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) that govern the level of residues of pesticides, drugs, and other products permitted in or on such products;

(2) describing current methods used by the Secretary to enforce the requirements of such Acts with respect to the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responding to the audit report of the Inspector General of the Department of Agriculture, Number 38002—2—hy, dated January 14, 1987;

(4) providing a summary with respect to the importation of covered products during fiscal years 1987 and 1988 that specifies—

(A) the number of samples of each such product taken during each such fiscal year in carrying out the requirements described in paragraph (1); and

(B) for each violation of such requirements during each such fiscal year—

(i) the covered products with respect to which such violation occurred;

(ii) the residue in or on such product in violation of such requirements;

[16] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[17] 21 U.S.C. 1401 note.

(iii) the country exporting such product;

(iv) the actions taken in response to such violation and the reasons for such actions; and

(v) the level of testing conducted by the countries exporting such products;

(5) describing any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on covered products; and

(6) providing any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported covered products.

(b) REVISION.—Not later than November 15, 1989, the Secretary of Agriculture shall revise, as necessary, the report prepared under subsection (a) and submit the revision to Congress.

(c) DEFINITION.—As used in this section, the term "covered products" means meat, poultry products, eggs, and egg products.

SEC. 4507. STUDY OF CIRCUMVENTION OF AGRICULTURAL QUOTAS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study with respect to—

(1) whether articles containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of refined sugar and sugar containing products imposed under Federal law.

(b) REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described in subsection (a);

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations;

(3) the effectiveness of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

(c) REPORT.—On completion of the study required by this section, the Comptroller General shall report the results of the study to the

Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4508. STUDY OF LAMB MEAT IMPORTS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat.

SEC. 4509. ROSE STUDY.

(a) STUDY.—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) REPORT.—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

(1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(3) the United States Trade Representative;

(4) the Secretary of Commerce; and

(5) the Secretary of Agriculture.

(c) REVIEW.—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.

SUBTITLE F—MISCELLANEOUS AGRICULTURAL PROVISIONS

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SEC. 4605. STUDY OF INTERNATIONAL MARKETING IN LAND GRANT COLLEGES AND UNIVERSITIES.

It is the sense of Congress that—

(1) land grant colleges and universities (as defined in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(10)) should encourage the study and career objective of international marketing of agricultural commodities and products;

(2) because marketing complements production, international agricultural marketing specialists are needed in a globally competitive world; and

(3) enhanced foreign marketing of United States agricultural commodities and products will help relieve stress in the rural economy.

SEC. 4606. INTERNATIONAL TRADE IN EGGS AND EGG PRODUCTS.

(a) FINDINGS.—Congress finds that—

(1) the system of basic and variable levies of the European Community has severely restricted the export of United States eggs and egg products to European Community member countries;

(2) export subsidies of the European Community have caused displacement of United States egg exports in international markets; and

(3) the Secretary of Agriculture is in the process of certifying the Netherland's inspection procedures for egg products for the purpose of importation into the United States of egg products of the Netherlands.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Trade Representative should enter into negotiations with the European Community concerning—

(1) duties, tariffs, and other means used by the European Community to limit the access of United States eggs and egg products to European Community markets; and

(2) European Community export subsidies that have had the effect of excluding United States eggs and egg products from other world markets.

SEC. 4607. UNITED STATES ACCESS TO THE KOREAN BEEF MARKET.

(a) FINDINGS.—Congress finds that—

(1) the 1986 United States trade deficit with the Republic of Korea was $7,600,000,000;

(2) the Republic of Korea has banned beef imports since May 1985;

(3) this beef import ban is in contravention of Korea's obligations under the General Agreement on Tariffs and Trade and impairs United States rights under such agreement;

(4) Korea imposes an unreasonably high 20 percent ad valorem tariff on meat products; and

(5) if the Korean beef market were liberalized, the United States, due to comparative advantage, could supply a significant portion of the Korean market for beef, thereby increasing

profit opportunities for the United States beef industry while benefiting Korean consumers.

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

(1) the Republic of Korea should take immediate action to fulfill its obligations under the General Agreement on Tariffs and Trade and permit access to its market for United States beef;

(2) the United States should aggressively pursue negotiations to gain access to the Korean market for United States beef;

(3) such negotiations, in addition to elimination of the beef import ban, should address the high tariffs set by the Republic of Korea and the means by which imported beef is distributed in Korea; and

(4) if the Republic of Korea does not show clear evidence that it is engaging in meaningful liberalization of its market for United States beef, the United States should use all available and appropriate means to encourage the Republic of Korea to open its market to United States beef imports.

SEC. 4608. UNITED STATES ACCESS TO JAPANESE AGRICULTURAL MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT") to examine Japanese import restrictions on 12 categories of agricultural products;

(2) the GATT panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan eliminate them or otherwise take action to bring them into conformity with the GATT; and

(3) the rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on imports from the United States, including—

(A) a virtual ban on imports of United States rice;

(B) a very restrictive quota on imports of United States beef; and

(C) high tariffs and restrictive quotas on imports of United States citrus.

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

(1) the Government of Japan should immediately take actions to comply with the findings of the GATT panel report;

(2) the Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on agricultural imports from the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) the United States should continue efforts to persuade the Government of Japan to remove its trade barriers.

SEC. 4609.[18] SENSE OF CONGRESS RELATING TO SECTION 22.

It is the sense of Congress that—

(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), re-enacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1 and 1445–2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.

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[18] 7 U.S.C. 624 note.

b. Agricultural Trade Act of 1978 [1]

Public Law 95–501 [S. 3447], 92 Stat. 1685, approved October 21, 1978; amended by Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103–66 [Omnibus Budget Reconciliation Act of 1993; H.R. 2264], 107 Stat. 312, approved August 10, 1993; Public Law 103–354 [Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994; H.R. 4217], 108 Stat. 3178, approved October 13, 1994; Public Law 103–465 [Uruguay Round Agreements Act; H.R. 5110], 110 Stat. 4809, approved December 8, 1994; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To strengthen the economy of the United States through increased sales abroad of United States agricultural commodities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Act of 1978".

SECTION 1.[2] SHORT TITLE.

This Act may be cited as the "Agricultural Trade Act of 1978".

TITLE I—GENERAL PROVISIONS

SEC. 101.[3] PURPOSE.

It is the purpose of this Act to increase the profitability of farming and to increase opportunities for United States farms and agricultural enterprises by—

(1) increasing the effectiveness of the Department of Agriculture in agricultural export policy formulation and implementation;

(2) improving the competitiveness of United States agricultural commodities and products in the world market; and

(3) providing for the coordination and efficient implementation of all agricultural export programs.

SEC. 102.[4] DEFINITIONS.

As used in this Act—

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" means any agricultural commodity, food, feed, fiber, or livestock (including livestock as it is defined in section 602(2)

[1] Sec. 1531 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3669) struck out the previous text and substantially restated this Act.
[2] 7 U.S.C. 5601 note.
[3] 7 U.S.C. 5601.
[4] 7 U.S.C. 5602.

of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) and insects),[5] and any product thereof.

(2) DEVELOPING COUNTRY.—The term "developing country" means a country that—

(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

(B) has the potential to become a commercial market for agricultural commodities.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) SERVICE.—The term "Service" means the Foreign Agricultural Service of the Department of Agriculture.

(5) UNFAIR TRADE PRACTICE.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "unfair trade practice" means any act, policy, or practice of a foreign country that—

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party; or

(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.

(B) CONSISTENCY WITH 1974 TRADE ACT.—Nothing in this Act may be construed to authorize the Secretary to make any determination regarding an unfair trade practice that is inconsistent with section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

(6) UNITED STATES.—The term "United States" includes each of the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(7)[6] UNITED STATES AGRICULTURAL COMMODITY.—The term "United States agricultural commodity" means—

(A) an agricultural commodity or product entirely produced in the United States; or

(B) a product of an agricultural commodity—

(i) 90 percent of more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

(ii) that the Secretary determines to be a high value agricultural product.

For purposes of this paragraph, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

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[5] Sec. 702(a) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), struck out "feed, or fiber" and inserted in lieu thereof "feed, fiber, or livestock (including livestock as it is defined in section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) and insects)".

[6] Sec. 243(c) of Public Law 104–127 (110 Stat. 967) struck out subparas. (A) and (B) and inserted new subparas. (A) and (B).

(8)[7] INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The term "independent states of the former Soviet Union" means the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

SEC. 103.[8] AGRICULTURAL EXPORT PROMOTION STRATEGY.

(a) IN GENERAL.—The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

(2) any accession to membership in the World Trade Organization;

(3) the continued economic growth in the Pacific Rim; and

(4) other developments.

(b) PURPOSE OF STRATEGY.—The strategy developed under subsection (a) shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

(c) GOALS OF STRATEGY.—The strategy developed under subsection (a) shall have the following goals:

(1) Increase the value of United States agricultural exports each year.

(2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.

(3) Increase the value of United States high-value and value-added agricultural exports each year.

(4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.

(5) Ensure that to the extent practicable—

(A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or

(B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

(d) PRIORITY MARKETS.—

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[7] Sec. 702(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) added paragraph (8).

[8] 7 U.S.C. 5603. Sec. 241(a) of Public Law 104–127 (110 Stat. 963) amended and restated sec. 103. Sec. 241(b) of that Act further stated:

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

"(1) the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate should conduct a thorough review of agricultural export and food aid programs not later than December 31, 1998; and

"(2) the review should examine what changes, if any, need to be made in the programs as a result of the effects of the Agricultural Market Transition Act, the Uruguay Round Agreements, changing world market conditions, and such other factors as the committees consider appropriate.".

(1) IDENTIFICATION OF MARKETS.—In developing the strategy required under subsection (a), the Secretary shall annually identify as priority markets—

(A) those markets in which imports of agricultural products show the greatest potential for increase; and

(B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

(2) IDENTIFICATION OF SUPPORTING OFFICES.—The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31, United States Code, each overseas office of the Foreign Agricultural Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).

SEC. 104.[9] PRESERVATION OF TRADITIONAL MARKETS.

The Secretary shall, in implementing programs of the Department of Agriculture intended to encourage or assist exports of agricultural commodities, seek to preserve traditional markets for United States agricultural commodities.

SEC. 105.[10] INDEPENDENCE OF AUTHORITIES.

Each authority granted under this Act shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 106.[11] IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

(1) submit the evaluation to the United States Trade Representative; and

(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.

TITLE II—AGRICULTURAL EXPORT PROGRAMS

SUBTITLE A—PROGRAMS [12]

SEC. 201.[13] DIRECT CREDIT SALES PROGRAM.

(a) SHORT-TERM PROGRAM.—To promote the sale of agricultural commodities, the Commodity Credit Corporation may finance the

[9] 7 U.S.C. 5604.
[10] 7 U.S.C. 5605.
[11] 7 U.S.C. 5606. Added by sec. 242(a) of Public Law 104–127 (110 Stat. 964).
[12] Sec. 310 of Public Law 102–237 (105 Stat. 1856) inserted this subtitle heading.

Continued

commercial export sale of such commodities from privately owned stocks on credit terms for not to exceed a 3-year period.

(b) INTERMEDIATE-TERM PROGRAM.—Subject to subsection (c), to promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sales of agricultural commodities from privately owned stocks on credit terms for a period of not less than 3 years nor in excess of 10 years in a manner that will directly benefit United States agricultural producers.

(c) DETERMINATIONS.—The Commodity Credit Corporation shall not finance an export sale under subsection (b) unless the Secretary determines that such sale will—

(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

(3) otherwise promote the export of United States agricultural commodities.

The reference in paragraphs (1) and (2) to "on a long-term basis" shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.[14]

(d) USE OF PROGRAM.—

(1) GENERAL USES.—The Commodity Credit Corporation may use export sales financing authorized under this section—

(A) to increase exports of agricultural commodities;

(B) to compete against foreign agricultural exports;

(C)[15] to assist countries in meeting their food and fiber needs, particularly—

(i) developing countries; and

(ii) countries that are emerging markets[16] that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(D) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

(2) GENERAL RESTRICTIONS.—Export sales financing authorized under this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales financed under this section.

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[13] 7 U.S.C. 5621. Sec. 707 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) substantially amended sec. 201.

[14] Sec. 707(a) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) added the last sentence.

[15] Sec. 707(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) restated subpar. (C). It formerly read as follows:

"(C) to assist countries, particularly developing countries, in meeting their food and fiber needs; and".

[16] Sec. 277(c)(2) of Public Law 104–127 (110 Stat. 979) struck out "emerging democracies" and inserted in lieu thereof "emerging markets".

(e) TERMS OF CREDIT ASSISTANCE.—Any contract for the financing of exports by the Commodity Credit Corporation under this section shall include—

(1) a requirement that repayment shall be made in dollars with interest accruing thereon as determined appropriate by the Secretary; and

(2) a requirement, if the Secretary determines such requirement appropriate to protect the interests of the United States, that an initial payment be made by the purchaser at the time of sale or shipment of the agricultural commodity that is subject to the contract.

(f)[17] RESTRICTIONS.—The Commodity Credit Corporation may not make export sales financing authorized under this section available in connection with sales of an agricultural commodity to any country that the Secretary determines cannot adequately service the debt associated with such sale.

SEC. 202.[18] EXPORT CREDIT GUARANTEE PROGRAM.

(a) SHORT-TERM CREDIT GUARANTEES.—(1)[19] IN GENERAL.—The Commodity Credit Corporation may guarantee the repayment of credit made available to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products,[20] from privately owned stocks on credit terms that do not exceed a 3–year period.

(2)[19] SUPPLIER CREDITS.—In carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.

(b) INTERMEDIATE-TERM CREDIT GUARANTEES.—Subject to the provisions of subsection (c), the Commodity Credit Corporation may guarantee the repayment of credit made available by financial institutions in the United States to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products,[20] from privately owned stocks on credit terms that are for not less than a 3-year period nor for more than a 10-year period in a manner that will directly benefit United States agricultural producers.

(c) REQUIRED DETERMINATIONS.—The Commodity Credit Corporation shall not guarantee under subsection (b) the repayment of credit made available to finance an export sale unless the Secretary determines that such sale will—

(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

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[17] Sec. 707(c) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) added subsec. (f).

[18] 7 U.S.C. 5622.

[19] Sec. 243(a) of Public Law 104–127 (110 Stat. 965) added para. designation "(1)" and a new para. (2).

[20] Sec. 709(a)(1) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) inserted ", including processed agricultural products and high-value agricultural products," after "agricultural commodities" at each place it appears in subsec. (a) and (b).

(3) otherwise promote the export of United States agricultural commodities.

The reference in paragraphs (1) and (2) to "on a long-term basis" shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.[21]

(d) PURPOSE OF PROGRAM.—The Commodity Credit Corporation may use export credit guarantees authorized under this section—

(1) to increase exports of agricultural commodities;

(2) to compete against foreign agricultural exports;

(3)[22] to assist countries in meeting their food and fiber needs, particularly—

(A) developing countries; and

(B) countries that are emerging markets[23] that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(4) for such other purposes as the Secretary determines appropriate, consistent with the provisions of subsection (c).

(e) RESTRICTIONS ON USE OF CREDIT GUARANTEES.—Export credit guarantees authorized by this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales with respect to which credit is guaranteed under this section.

(f) RESTRICTIONS.—

(1)[24] IN GENERAL.—The Commodity Credit Corporation shall not make credit guarantees available in connection with sales of agricultural commodities to any country that the Secretary determines cannot adequately service the debt associated with such sale.

(2)[24] CRITERIA FOR DETERMINATION.—In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

(B) whether the country is addressing issues such as—

(i) the convertibility of the currency of the country;

(ii) adequate legal protection for foreign investments;

(iii) the viability of the financial markets of the country; and

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[21] Sec. 708(a) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) added this last sentence to subsec. (c).

[22] Sec. 708(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) restated par. (3), which had read as follows:

"(3) to assist countries, particularly developing countries, in meeting their food and fiber needs; and".

[23] Sec. 277(c)(3) of Public Law 104–127 (110 Stat. 979) struck out "emerging democracies" and inserted in lieu thereof "emerging markets".

[24] Sec. 243(a)(2) of Public Law 104–127 (110 Stat. 966) added para. designation "(1)" and added a new para. (2).

(iv) adequate legal protection for the private property rights of citizens of the country; or

(C) any other factors that are relevant to the ability of the country to service the debt of the country.

(g) TERMS.—Export credit guarantees issued pursuant to this section shall contain such terms and conditions as the Commodity Credit Corporation determines to be necessary.

(h)[25] UNITED STATES AGRICULTURAL COMMODITIES.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.

(i)[26] INELIGIBILITY OF FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—A financial institution shall be ineligible to receive an assignment of a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that[27] such financial institution—

(A) is the financial institution issuing the letter of credit or a subsidiary of such institution; or

(B) is owned or controlled by an entity that owns or controls that financial institution issuing the letter of credit.

(2) THIRD COUNTRY BANKS.—The Commodity Credit Corporation may guarantee under subsections (a) and (b) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined.

(j) CONDITIONS FOR FISH AND PROCESSED FISH PRODUCTS.—In making available any guarantees of credit under this section in connection with sales of fish and processed fish products, the Secretary shall make such guarantees available under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to sales of other agricultural commodities under this section.

(k)[28] PROCESSED AND HIGH-VALUE PRODUCTS.—

(1) IN GENERAL.—In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000, 2001, and 2002, of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and that the balance

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[25] Sec. 243(a)(3) of Public Law 104–127 (110 Stat. 966) amended and restated subsec. (h). It formerly read as follows:

"(h) FOREIGN AGRICULTURAL COMPONENTS.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities. The Commodity Credit Corporation shall not finance or guarantee under this section the value of any foreign agricultural component.".

[26] In subsec. (i), sec. 243(a)(4) of Public Law 104–127 (110 Stat. 966) struck out para. (1), which had read, "(1) is not in sound financial condition;", inserted a new para. (1), redesignated former paras. (2) and (3) as subparas. (A) and (B), and added a new para. (2).

[27] Sec. 334 of Public Law 102–237 (105 Stat. 1859) struck out "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserted in lieu thereof "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

[28] Sec. 709(a)(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) added subsec. (k), relating to set-asides. Sec. 243(a)(5) of Public Law 104–127 (110 Stat. 966) amended and restated the subsection.

is issued to promote the export of bulk or raw agricultural commodities.

(2) LIMITATION.—The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.

SEC. 203.[29] MARKET ACCESS PROGRAM.

(a) IN GENERAL.—The Commodity Credit Corporation shall establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program.

(b) TYPE OF ASSISTANCE.—Assistance under this section may be provided in the form of funds of, or commodities owned by, the Commodity Credit Corporation, as determined appropriate by the Secretary.

(c)[30] REQUIREMENTS FOR PARTICIPATION.—To be eligible for cost-share assistance under this section, an organization shall—

(1) be an eligible trade organization;

(2) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such plans established by the Secretary; and

(3) meet any other requirements established by the Secretary.

(d) ELIGIBLE TRADE ORGANIZATIONS.—An eligible trade organization shall be—

(1) a United States agricultural trade organization or regional State-related organization that promotes the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities;

(2) a cooperative organization or State agency that promotes the sale of agricultural commodities; or

(3) a private organization that promotes the export and sale of agricultural commodities if the Secretary determines that such organization would significantly contribute to United States export market development.

(e) APPROVED MARKETING PLAN.—

(1) IN GENERAL—A marketing plan submitted by an eligible trade organization under this section shall describe the advertising or other market oriented export promotion activities to be carried out by the eligible trade organization with respect to which assistance under this section is being requested.

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[29] 7 U.S.C. 5623. Sec. 244(a)(1)(A) of Public Law 104–127 (110 Stat. 967) struck out "Market Promotion Program" and inserted in lieu thereof "Market Access Program" as the section catchline.

[30] Sec. 411(d) of Public Law 103–465 (108 Stat. 4963) struck out para. (2) in this subsec., struck out para. designation "(1)", and redesignated subparas. (A) through (c) as paras. (1) through (3). Para. (2), as previously amended by Public Law 103–66 (107 Stat. 330), formerly read as follows:

"(2) UNFAIR TRADE PRACTICES.—

"(A) REQUIREMENT.—Except as provided in subparagraph (B), the Secretary shall provide assistance under this section only to counter or offset the adverse effects of a subsidy, import quota, or other unfair trade practice of a foreign country.

"(B) EXCEPTION.—The Secretary shall waive the requirements of this paragraph in the case of activities conducted by small entities operating through the regional State-related organizations.".

(2) REQUIREMENTS.—To be approved by the Secretary, a marketing plan submitted under this subsection shall—

(A) specifically describe the manner in which assistance received by the eligible trade organization in conjunction with funds and services provided by the eligible trade organization will be expended in implementing the marketing plan;

(B) establish specific market goals to be achieved as a result of the market access program;[31] and

(C) contain whatever additional requirements are determined by the Secretary to be necessary.

(3) AMENDMENTS.—A marketing plan may be amended by the eligible trade organization at any time, with the approval of the Secretary.

(4) BRANDED PROMOTION.—An agreement entered into under this section may provide for the use of branded advertising to promote the sale of agricultural commodities in a foreign country under such terms and conditions as may be established by the Secretary.

(f) OTHER TERMS AND CONDITIONS.—

(1) MULTI-YEAR BASIS.—The Secretary may provide assistance under this section on a multi-year basis, subject to annual review by the Secretary for compliance with the approved marketing plan.

(2) TERMINATION OF ASSISTANCE.—The Secretary may terminate any assistance made, or to be made, available under this section if the Secretary determines that—

(A) the eligible trade organization is not adhering to the terms and conditions of the program established under this section;

(B) the eligible trade organization is not implementing the approved marketing plan or is not adequately meeting the established goals of the market access program;[31]

(C) the eligible trade organization is not adequately contributing its own resources to the market access program;[31] or[32]

(D)[32] the Secretary determines that termination of assistance in a particular instance is in the best interests of the program.

(3) EVALUATIONS.—The Secretary shall monitor the expenditure of funds received under this section by recipients of such funds. The Secretary shall make evaluations of such expenditure, including—

(A) an evaluation of the effectiveness of the program in developing or maintaining markets for United States agricultural commodities;

(B) an evaluation of whether assistance provided under this section is necessary to maintain such markets; and

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[31] Sec. 244(a)(1)(B) of Public Law 104–127 (110 Stat. 967) struck out "marketing promotion program" and inserted in lieu thereof "market access program" throughout sec. 203.

[32] Sec. 411(d)(2) of Public Law 103–465 (108 Stat. 4963) struck out subpara. (D), added "or" at the end of subpara. (C), and redesignated subpara. (E) as subpara. (D). Former subpara. (D) read as follows:

"(D) the unfair trade practice that was the basis of the provision of assistance has been discontinued and marketing assistance is no longer required to offset its effects; or".

(C) a thorough accounting of the expenditure of such funds by the recipient.

The Secretary shall make an initial evaluation of expenditures of a recipient not later than 15 months after the initial provision of funds to the recipient.

(4)[33] USE OF FUNDS.—Funds made available to carry out this section—

(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

(i) a cooperative;

(ii) an association described in the first section of the Act entitled "An Act To authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291); and

(iii) a nonprofit trade association; and

(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.

(g) LEVEL OF MARKETING ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall justify in writing the level of assistance provided to an eligible trade organization under the program under this section and the level of cost-sharing required of such organization.

(2) LIMITATION.—Assistance provided under this section for activities described in subsection (e)(4) shall not exceed 50 percent of the cost of implementing the marketing plan, except that the Secretary may determine not to apply such limitation in the case of agricultural commodities with respect to which there has been a favorable decision by the United States Trade Representative under section 301 of the Trade Act of 1974. Criteria for determining that the limitation shall not apply shall be consistent and documented.

(3) STAGED REDUCTION IN ASSISTANCE.—In the case of participants that received assistance under section 1124 of the Food Security Act of 1985 prior to November 28, 1990,[34] and with respect to which assistance under this section would be limited under paragraph (2), any such reduction in assistance shall be phased down in equal increments over a 5-year period.

SEC. 204.[35] BARTER OF AGRICULTURAL COMMODITIES.

(a) IN GENERAL.—The Secretary or the Commodity Credit Corporation may provide eligible commodities in barter for foreign

[33] Sec. 244(b) of Public Law 104–127 (110 Stat. 968) added para. (4).

[34] Sec. 309 of Public Law 102–237 (105 Stat. 1856) struck out "the date of enactment of this Act" and inserted in lieu thereof "November 28, 1990,".

[35] 7 U.S.C. 5624.

products under such terms and conditions as the Secretary or the Corporation shall prescribe.

(b) ELIGIBLE COMMODITIES.—Unless otherwise specified, eligible commodities shall include—

(1) agricultural commodities acquired by the Commodity Credit Corporation through price support operations; and

(2) agricultural commodities acquired by the Secretary or the Commodity Credit Corporation in the normal course of business and available for disposition.

(c) BARTER BY EXPORTERS OF AGRICULTURAL COMMODITIES.—

(1) PURPOSE.—The Secretary or the Commodity Credit Corporation shall encourage exporters of agricultural commodities to barter such commodities for foreign products—

(A) to acquire such foreign products needed by such exporters; and

(B) to develop, maintain, or expand foreign markets for United States agricultural exports.

(2) ELIGIBLE ACTIVITIES.—The Secretary or the Commodity Credit Corporation may provide eligible commodities to exporters to assist such exporters in barter transactions.

(3) TECHNICAL ASSISTANCE.—The Secretary or the Commodity Credit Corporation shall provide technical advice and assistance relating to the barter of agricultural commodities to any United States exporter who requests such advice or assistance.

(d) TRANSFER OF FOREIGN PRODUCTS TO OTHER GOVERNMENT AGENCIES.[36]—The Secretary or the Commodity Credit Corporation may transfer any foreign products that the Secretary or such Corporation obtains through barter activities to other Government[37] agencies if the Corporation receives assurances that it will receive full reimbursement from the agency within the same fiscal year in which such transfer occurs.

(e) CORPORATION AUTHORITY NOT LIMITED.—Nothing contained in this section shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such foreign materials as such Corporation determines appropriate in carrying out the functions and protecting the assets of the Corporation.

(f) PROHIBITED ACTIVITIES.—The Secretary or the Commodity Credit Corporation shall take reasonable precautions to prevent the misuse of eligible commodities in a barter or exchange program, including activities that—

(1) displace or interfere with commercial sales of United States agricultural commodities that otherwise might be made;

(2) unduly disrupt world prices of agricultural commodities or the normal patterns of commercial trade with recipient countries; or

(3) permit the resale or transshipment of eligible commodities to countries other than the intended recipient country.

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[36] Sec. 320(1) of Public Law 102–237 (105 Stat. 1857) struck out "Agency or Private Parties" from the heading and inserted in lieu thereof "Agencies".

[37] Sec. 320(2) of Public Law 102–237 (105 Stat. 1857) capitalized "government".

SEC. 205.[38] COMBINATION OF PROGRAMS.

The Commodity Credit Corporation may carry out a program under which commercial export credit guarantees available under section 202 are combined with direct credits from the Commodity Credit Corporation under section 201 to reduce the effective rate of interest on export sales of agricultural commodities.

SUBTITLE B—IMPLEMENTATION

SEC. 211.[39] FUNDING LEVELS.

(a) DIRECT CREDIT PROGRAMS.—The Commodity Credit Corporation may make available for each fiscal year such funds of the Commodity Credit Corporation as it determines necessary to carry out any direct credit program established under section 201.

(b)[40] EXPORT CREDIT GUARANTEE PROGRAMS.—

(1) EXPORT CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2002 not less than $5,500,000,000 in credit guarantees under subsections (a) and (b) of section 202.

(2) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note).

(c)[41] MARKETING ACCESS PROGRAMS.—The Commodity Credit Corporation or the Secretary shall make available for market access activities[42] authorized to be carried out by the Commodity Credit Corporation under section 203—

(1) in addition to any funds that may be specifically appropriated to implement a market access program,[43] not less than $200,000,000 for each of the fiscal years 1991 through 1993,[44] not less than $110,000,000 for each of the fiscal years 1994 through 1995, and not more than $90,000,000 for each of the

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[38] 7 U.S.C. 5625.

[39] 7 U.S.C. 5641.

[40] Sec. 243(b) of Public Law 104–127 (110 Stat. 967) struck out subsec. (b) and inserted a new subsec. (b). It formerly read as follows:

"(b)EXPORT CREDIT GUARANTEE PROGRAMS.—

"(1) SHORT-TERM GUARANTEES.—

"(A) MINIMUM AMOUNTS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995 not less than $5,000,000,000 in credit guarantees under section 202(a).

"(B) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to one percent of the amount of credit extended under the transaction.

"(2) INTERMEDIATE-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995 not less than $500,000,000 in credit guarantees under section 202(b).".

[41] Sec. 244(a)(2)(B)(i) of Public Law 104–127 (110 Stat. 968) struck out "Marketing Promotion Programs" and inserted in lieu thereof "Market Access Programs" in the subsection heading.

[42] Sec. 244(a)(2)(B)(ii) of Public Law 104–127 (110 Stat. 968) struck out "market promotion activities" and inserted in lieu thereof "market access activities".

[43] Sec. 244(a)(2)(B)(iii) of Public Law 104–127 (110 Stat. 968) struck out "market development program" and inserted in lieu thereof "market access program".

[44] Sec. 244(c)(1) of Public Law 104–127 (110 Stat. 968) struck out "and" after "through 1993".

fiscal years 1996 through 2002,[45] of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and

(2) any funds that may be specifically appropriated to carry out a market access program[46] under section 203.

TITLE III—EXPORT ENHANCEMENT PROGRAM[47]

SEC. 301.[48] EXPORT ENHANCEMENT PROGRAM.

(a)[49] IN GENERAL.—The Commodity Credit Corporation shall carry out an export enhancement program in accordance with this section to encourage the commercial sale of United States agricultural commodities in world markets at competitive prices. The program shall be carried out in a market sensitive manner. Activities under the program shall not be limited to responses to unfair trade practices.

(b) EXPORT BONUS.—

(1) IN GENERAL.—In carrying out the program established under this section, the Commodity Credit Corporation may—

(A) make agricultural commodities, acquired by the Commodity Credit Corporation, available to exporters, users, processors, or foreign purchasers at no cost either directly or through the issuance of commodity certificates; and

(B) make cash payments to exporters, users, and processors.

(2) CALCULATION OF BONUS LEVELS.—The Commodity Credit Corporation shall—

(A) maintain an established procedure for evaluating program bonus requests, with guidelines for determining prevailing market prices for targeted commodities and destinations to be used in the calculation of acceptable bonus levels;

(B) use a clear set of established procedures for measuring transportation and incidental costs to be used in the calculation of acceptable bonus levels and for determining the amount of such costs actually incurred; and

(C) maintain consistent and effective controls and procedures for auditing and reviewing payment of bonuses and for securing refunds where appropriate.

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[45] Sec. 1302(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 330) struck out "through 1995" and inserted in lieu thereof "through 1993, and not less than $110,000,000 for each of the fiscal years 1994 through 1997,". Sec. 244(c)(2) of Public Law 104–127 (110 Stat. 968) subsequently struck out "through 1997," and inserted in lieu thereof "through 1995, and not more than $90,000,000 for each of fiscal years 1996 through 2002". This amendment was effective October 1, 1995, pursuant to sec. 244(c) of that Act.

[46] Sec. 244(a)(2)(B)(iii) of Public Law 104–127 (110 Stat. 968) struck out "marketing development program" and inserted in lieu thereof "market access program".

[47] Sec. 411(a)(2) of Public Law 103–465 (108 Stat. 4962) struck out "RESPONSE TO UNFAIR TRADE PRACTICES" and inserted in lieu thereof "EXPORT ENHANCEMENT PROGRAM".

[48] 7 U.S.C. 5651.

[49] Sec. 411(a)(3) of Public Law 103–465 (108 Stat. 4963) amended and restated subsec. (a). It formerly read, as amended by sec. 709(b)(1) of the FREEDOM Support Act, as follows:

"IN GENERAL.—The Commodity Credit Corporation shall carry out in accordance with this section a program to discourage unfair trade practices by making United States agricultural commodities, including processed agricultural products and high-value agricultural products, competitive.".

(3) DISCLOSURE OF INFORMATION.—The Secretary may, notwithstanding the provisions of section 552 of title 5, United States Code, provide for withholding from the public the procedures and guidelines established under paragraphs (2) (A) and (B) if the Secretary determines that release of such information would adversely affect the operation of the program. Nothing in this paragraph shall be construed to authorize the withholding of information, including such procedures and guidelines, from the Congress.

(4) COMPETITIVE DISADVANTAGE.—The Secretary shall take such action as is necessary to ensure that equal treatment is provided to domestic and foreign purchasers and users of agricultural commodities in any case in which the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage.

(5) DIFFERENT COMMODITIES.—The Commodity Credit Corporation may provide to an exporter, user, or processor, or foreign purchaser, under the program established under this section, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

(6) OTHER EXPORT PROGRAMS.—The Commodity Credit Corporation may provide bonuses under this section in conjunction with other export promotion programs conducted by the Secretary or the Commodity Credit Corporation.

(7) AVOIDANCE OF PREFERENTIAL APPLICATION.—When using the authorities of this section to promote the exporting of wheat, the Secretary shall make reasonable efforts to avoid giving a preference to one class of wheat disproportionately more than another class.

(8) DISPLACEMENT.—The Secretary shall avoid the displacement of usual marketings of United States agricultural commodities in carrying out this section.

(c) PRIORITY IN THE CASE OF LIVESTOCK.—In the case of proposals for bonuses for dairy cattle or other appropriate livestock, the Commodity Credit Corporation shall give priority to proposals that include, in connection with the purchase of the livestock, appropriate herd management training, veterinary services, nutritional training, and other technical assistance necessary for the adaptation of the livestock to foreign environments.

(d) INAPPLICABILITY OF PRICE RESTRICTIONS.—Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

(e) FUNDING LEVELS.—

(1)[50] IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

[50] Sec. 245(a) of Public Law 104–127 (110 Stat. 968) amended and restated para. (1), effective October 1, 1995. It formerly read as follows:

(A) $350,000,000 for fiscal year 1996;
(B) $250,000,000 for fiscal year 1997;
(C) $500,000,000 for fiscal year 1998;
(D) $550,000,000 for fiscal year 1999;
(E) $579,000,000 for fiscal year 2000;
(F) $478,000,000 for fiscal year 2001; and
(G) $478,000,000 for fiscal year 2002.'

(2)[51] SET-ASIDES.—(A) For each fiscal year, the Corporation shall, to the extent practicable and subject to subparagraph (B), ensure that no less than 25 percent of the total of—

(i) the funds expended, and

(ii) the value of any commodities made available,

under this section in connection with sales of agricultural commodities to the independent states of the former Soviet Union is used to promote the export of processed and high-value United States agricultural products and that the balance of the funds expended and commodities made available under this section in connection with such sales is used to promote the export of bulk or raw United States agricultural commodities.

(B) The 25 percent requirement of subparagraph (A) shall apply for a fiscal year only to the extent that the percentage of the total of—

(i) the funds expended, and

(ii) the value of commodities made available,

for that fiscal year under this section to promote the export to all countries of processed and high-value United States agricultural products is less than 15 percent.

(f)[52] EFFECT ON THIRD COUNTRIES.—It is not the purpose of the program established under this section to affect adversely the exports of fairly traded agricultural commodities.

(g)[53] CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—Notwithstanding any other provisions of this section, the Commodity Credit Corporation shall administer and carry out the program authorized by this section in a manner consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements.

(h)[54] PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—

(1) IN GENERAL.—Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than $100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural

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"IN GENERAL.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 2001 not less than $500,000,000 of the funds or commodities of the Commodity Credit Corporation to carry out the program established under this section.".

The para. was previously, amended by sec. 709(b)(2)(A) of Public Law 102–511 (106 Stat. 3352) and sec. 411(a)(4) of Public Law 103–465 (108 Stat. 4963).

[51] Sec. 709(b)(2)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3352) added paragraph (2).

[52] This subsection was originally enacted as subsec. (g). Sec. 311 of Public Law 102–237 (105 Stat. 1856) redesignated this subsec. as (f).

[53] Sec. 411(a)(4)(B) of Public Law 103–465 (108 Stat. 4963) added subsec. (g).

[54] Sec. 245(b) of Public Law 104–127 (110 Stat. 969) added subsec. (h).

products exported by the United States during the Uruguay Round base period years of 1986 through 1990.

(2) ADDITIONAL ASSISTANCE.—Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.

SEC. 302.[55] RELIEF FROM UNFAIR TRADE PRACTICES.

(a) USE OF PROGRAMS.—

(1) IN GENERAL.—The Secretary may, for each article described in paragraph (2), make available some or all of the commercial export promotion programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice serving as the basis for the proceeding described in paragraph (2).

(2) COMMODITIES SPECIFIED.—Paragraph (1) shall apply in the case of articles for which the United States has instituted, under any international trade agreement, any dispute settlement proceeding based on an unfair trade practice if such proceeding has been prevented from progressing to a decision by the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress.

(b) CONSULTATIONS REQUIRED.—For any article described in subsection (a)(2), the Secretary shall—

(1) promptly consult with representatives of the industry producing such articles and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy utilizing some or all of the commercial export programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice identified in subsection (a)(2); and

(2) ascertain and take into account the industry preference for the practical use of available commercial export promotion programs in implementing subsection (a)(1).

SEC. 303.[56] EQUITABLE TREATMENT OF HIGH-VALUE AND VALUE-ADDED UNITED STATES AGRICULTURAL COMMODITIES.

In the case of any program, such as that established under section 301, operated by the Secretary or the Commodity Credit Corporation during the fiscal years 1991 through 1995, for the purpose of discouraging unfair trade practices, the Secretary shall establish as an objective to expend annually at least 25 percent of the total funds available (or 25 percent of the value of any commodities employed) for program activities involving the export sales of high-value agricultural commodities and value-added products of United States agricultural commodities.

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[55] 7 U.S.C. 5652.
[56] 7 U.S.C. 5653.

TITLE IV—GENERAL PROVISIONS

SUBTITLE A—PROGRAM CONTROLS

SEC. 401.[57] PROGRAM CONTROLS FOR EXPORT PROGRAMS.

(a)[58] ARRIVAL CERTIFICATION.—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201, 202, or 301, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.

(b) DIVERSION.—The unauthorized diversion of commodities under the programs authorized in sections 201, 202, and 301 is prohibited. The Commodity Credit Corporation shall establish procedures providing for the annual audit of a sufficient number of export transactions under such programs to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

(c) GOOD FAITH.—The failure of an exporter, seller or other person to comply with the provisions of this section shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this Act with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller, or person was assigned the credit guarantee or at the time the Corporation entered into such obligation.

SEC. 402.[59] COMPLIANCE PROVISIONS.

(a) RECORDS.—

(1) IN GENERAL.—In the administration of the programs established under sections 201, 202, 203, and 301 the Secretary shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records.

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[57] 7 U.S.C. 5661.

[58] Sec. 246 of Public Law 104–127 (110 Stat. 969) amended and restated subsec. (a). It formerly read as follows:

"(a) ARRIVAL CERTIFICATION.—With respect to commodities or other assistance provided, or for which financing or credit guarantees are made available, under the programs authorized in sections 201, 202, and 301, the Commodity Credit Corporation shall—

"(1) require the exporter to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and have access to such documents or records as needed to verify the arrival of agricultural commodities exported in connection with such programs in the countries that were the intended destination of such commodities; and

"(2) obtain certification from the seller or exporter of record of such commodities, that there were no corrupt payments or extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law.".

[59] 7 U.S.C. 5662.

(2)[60] CONFIDENTIALITY.—The personally identifiable information contained in reports under subsection (a) may be withheld in accordance with section 552(b)(4) of title 5, United States Code. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18, United States Code, shall be subject to section 1905 of title 18, United States Code. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

(b) VIOLATION.—If any exporter, assignee, or other participant has engaged in fraud with respect to the programs authorized under this Act, or has otherwise violated program requirements under this Act, the Commodity Credit Corporation may—

(1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

(2) require a refund of any assistance provided to such exporter, assignee, or participant plus interest, as determined by the Secretary; and

(3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

(c) SUSPENSION AND DEBARMENT.—The Commodity Credit Corporation may suspend or debar for 1 or more years any exporter, assignee, or other participant from participation in one or more of the programs authorized by this Act if the Corporation determines, after opportunity for a hearing, that such exporter, assignee, or other participant has violated the terms and conditions of the program or of this Act and that the violation is of such a nature as to warrant suspension or debarment.

(d) FALSE CERTIFICATIONS.—The provisions of section 1001 of title 18, United States Code, shall apply to any false certifications issued under this Act.

SEC. 403.[61] DEPARTMENTAL ADMINISTRATION SYSTEM.

(a) IN GENERAL.—With respect to each commercial export promotion program of the Department of Agriculture or the Commodity Credit Corporation, the Secretary shall—

(1) specify by regulation the criteria used to evaluate and approve proposals for that program;

(2) establish a centralized system to permit the Foreign Agricultural Service to provide the history and current status of any proposal;

(3) provide for regular audits of program transactions to determine compliance with program objectives and requirements; and

[60] Sec. 247 of Public Law 104–127 (110 Stat. 969) struck out para. (2) and redesignated para. (3) as para. (2). Former para. (2) read as follows:

"(2) NONPROGRAM TRANSACTIONS.—The Secretary may require by regulation an exporter or other participant in the programs to make records available to the Secretary with respect to non-program transactions if such records would pertain directly to the review of program-related transactions undertaken by such exporter or participant, as determined by the Secretary.".

[61] 7 U.S.C. 5663.

(4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees.

(b) ACCESSIBILITY OF INFORMATION.—Information pertaining to the status of a particular proposal shall be retrievable within the central system by appropriate categories, as determined appropriate by the Secretary.

SEC. 404.[62] REGULATIONS. * * * [Repealed—1996]

SUBTITLE B—MISCELLANEOUS PROVISIONS

SEC. 411.[63] AGRICULTURAL EMBARGO PROTECTION.

(a) PREREQUISITES; SCOPE OF COMPENSATION.—Notwithstanding any other provision of law, if—

(1) the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) or under any other provision of law;

(2) such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world; and

(3) sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceeds 3 percent of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect;

the Secretary shall compensate producers of the commodity involved by making payments available to such producers, as provided in subsection (b) of this section.

(b) AMOUNT OF PAYMENTS.—If the Secretary makes payments available to producers under subsection (a), the amount of such payment shall be determined—

(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), by multiplying—

(A) the farm program payment yield for the producer or the yield established for the farm for the commodity involved; by

(B) the crop acreage base established for the commodity; by

(C) the amount by which the average market price per unit of such commodity received by producers during the

[62] Formerly at 7 U.S.C. 5664. Sec. 248 of Public Law 104–127 (110 Stat. 969) repealed sec. 404. It had read as follows:

"Not later than 180 days after November 28, 1990, the Secretary shall issue regulations implementing the provisions of this Act, including specific regulations pertaining to program compliance requirements under sections 401 and 402.".

[63] 7 U.S.C. 5671.

60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), by multiplying the amount by which the average market price per unit of such commodity received by the producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

(c) TIME FOR PAYMENTS.—Payments under paragraph (1) of subsection (b) shall be made for each marketing year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at 90-day intervals, beginning 90 days after the date of the imposition of the suspension or restriction.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

(e) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to carry out this section.

SEC. 412.[64] DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EMBARGOES.

To alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities of the President or other member of the executive branch of the Federal Government causing the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

(1) develop a comprehensive contingency plan that shall include—

(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in paragraph (1)(B);

[64] 7 U.S.C. 5672.

(2) for any suspension or restriction for which compensation is not provided under section 411, prepare and submit to the appropriate Committees of Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

(3) for any suspension or restriction for which compensation is provided under section 411, prepare and submit to the appropriate Committees of Congress a plan for implementing and administering section 411; and

(4) require the Commodity Credit Corporation, prior to such Corporation purchasing any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

SEC. 413.[65] CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) IN GENERAL.—The Secretary may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) NOT EMPLOYEES OF THE UNITED STATES.—Individuals referred to in subsection (a) shall not be regarded as officers or employees of the United States.

SEC. 414.[66] TRADE CONSULTATIONS CONCERNING IMPORTS.

(a) CONSULTATION BETWEEN AGENCIES.—The Secretary shall require consultation between the Administrator of the Service and the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, prior to relaxing or removing any restriction on the importation of any agricultural commodity into the United States.

(b) CONSULTATION WITH TRADE REPRESENTATIVE.—The Secretary shall consult with the United States Trade Representative prior to relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

(c)[67] MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—The Secretary shall monitor the compliance of World Trade Organization member countries with the

[65] 7 U.S.C. 5673.
[66] 7 U.S.C. 5674.
[67] Sec. 242(b) of Public Law 104–127 (110 Stat. 965) added subsec. (c).

sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

(B) any notice given by the Secretary to the United States Trade Representative.

SEC. 415.[68] TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

SEC. 416.[69] LIMITATION ON USE OF CERTAIN EXPORT PROMOTION PROGRAMS.

(a) IN GENERAL.—The Secretary may provide that a person shall be ineligible for participation in an export program established under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(b) VEGETABLE OIL.—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(c) CERTIFICATION.—If the Secretary takes action under the authority granted under subsection (a), a person applying to export any agricultural commodity under the export programs referred to

[68] 7 U.S.C. 5675.
[69] 7 U.S.C. 5676.

in subsection (a) shall certify that none of the commodity has been or will be used as the basis of a claim for any refund specified in subsection (a), except that regardless of whether the Secretary takes action under the authority granted under subsection (a), a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

(d) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section.

(e) APPLICABILITY.—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to November 28, 1990,[70] for an export sale.

SEC. 417.[71] TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a "program").

(b) COMPENSATION OR PROVISION OF FUNDS.—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

(c) DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.—

(1) COMPENSATION.—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary's estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

(2) DETERMINATION OF AMOUNT OF FUNDS.—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most

[70] Sec. 313 of Public Law 102–237 (105 Stat. 1856) struck out "the effective date of this section" and inserted in lieu thereof "November 28, 1990".

[71] 7 U.S.C. 5677. Added by sec. 249 of Public Law 104–127 (110 Stat. 969).

recent 3 years prior to the suspension for which data are available.

(d) DURATION OF PROGRAM.—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

(e) COMMODITY CREDIT CORPORATION.—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

(f) EXCEPTION TO CARRYING OUT A PROGRAM.—This section shall not apply to any suspension of trade due to a war or armed hostility.

(g) PARTIAL YEAR EMBARGOES.—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year (in addition to any funds otherwise required under a program to be made available in the following fiscal year).

(h) SHORT SUPPLY EMBARGOES.—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).

TITLE V—FOREIGN AGRICULTURAL SERVICE

SEC. 501.[72] UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS. * * * [Repealed—1994]

SEC. 502.[73] ADMINISTRATOR OF THE FOREIGN AGRICULTURAL SERVICE.

(a) ESTABLISHMENT.—There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service.

(b) DUTIES.—The Administrator of the Foreign Agricultural Service is authorized to exercise such functions and perform such duties related to foreign agriculture, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

(c) USE OF SERVICE.—In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attache Service.

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[72] Formerly at 7 U.S.C. 5691. Sec. 225 of the Department of Agriculture Reorganization Act of 1994 (title II of Public Law 103–354; 108 Stat. 3213) authorized the Secretary of Agriculture to establish a position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services, and repealed this section. See 7 U.S.C. 6931.

[73] 7 U.S.C. 5692.

SEC. 503.[74] DUTIES OF THE FOREIGN AGRICULTURAL SERVICE.

The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

(1) acquiring information pertaining to agricultural trade;

(2) carrying out market promotion and development activities;

(3) providing agricultural technical assistance and training; and

(4) carrying out the programs authorized under this Act, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.

SEC. 504.[75] STAFF OF THE FOREIGN AGRICULTURAL SERVICE.

(a) PERSONNEL OF THE SERVICE.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Service shall not be less than 900 staff years each fiscal year.

(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, on the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed twelve.

SEC. 505.[76] AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated for the Service such sums as may be necessary to carry out the provisions of this title.

TITLE VI—REPORTS

SEC. 601.[77] * * * [Repealed—1996]

SEC. 602.[78] EXPORT REPORTING AND CONTRACT SANCTITY.

(a) EXPORT SALES REPORTS.—

(1) IN GENERAL.—All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities that the Secretary may designate produced[79] in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any con-

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[74] 7 U.S.C. 5693. Sec. 250 of Public Law 104–127 (110 Stat. 971) amended and restated sec. 503. It formerly read as follows:

"SEC. 503. ESTABLISHMENT OF THE FOREIGN AGRICULTURAL SERVICE.

"The Service shall assist the Secretary in carrying out the agricultural trade policy of the United States by acquiring information pertaining to agricultural trade, carrying out market promotion and development activities, and implementing the programs authorized in this Act, the Agricultural Trade Development and Assistance Act of 1954, and other Acts.".

[75] 7 U.S.C. 5694.

[76] 7 U.S.C. 5695. Originally enacted as sec. 506, sec. 314 of Public Law 102–237 (105 Stat. 1856) redesignated this section as 505.

[77] Formerly at 7 U.S.C. 5711. Sec. 601, which had required the Secretary of Agriculture periodically to prepare a long-term agricultural trade strategy report, was repealed by sec. 2451(c)(1) of Public Law 104–127 (110 Stat. 964).

[78] 7 U.S.C. 5712.

[79] Sec. 327 of Public Law 102–237 (105 Stat. 1858) struck out "designate as produced" and inserted in lieu thereof "designate produced".

tract for export sales entered into or subsequently modified in any manner during the reporting period:

(A) type, class, and quantity of the commodity sought to be exported;

(B) the marketing year of shipment; and

(C) destination, if known.

(2) CONFIDENTIALITY AND COMPILATION OF REPORTS.—Individual reports shall remain confidential[80] but shall be compiled by the Secretary and published in compilation form each week following the week of reporting.

(3) IMMEDIATE REPORTING.—All exporters of agricultural commodities produced in the United States shall, upon request of the Secretary, immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as the Secretary may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily.

(4) MONTHLY REPORTING PERMITTED.—The Secretary may, with respect to any commodity or type or class thereof during any period in which the Secretary determines that—

(A) there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements,

(B) total supplies of such commodity in the exporting countries are estimated to be in surplus,

(C) anticipated exports will not result in excessive drain on domestic supplies, and

(D) to require the reports to be made will unduly hamper export sales,

provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

(b) FAILURE TO REPORT.—Any person who knowingly fails to make any report required under this section shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both.

(c) CONTRACT SANCTITY.—Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity under an export sales contract—

(1) that is entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity, and

(2) the terms of which require delivery of the commodity within 270 days after the date of the suspension of trade is imposed,

except that the President may prohibit or curtail the export of any agricultural commodity during a period for which the President has declared a national emergency or for which the Congress has declared war.

[80] Sec. 327(2) of Public Law 102–237 (105 Stat. 1858) struck out "in accordance with subsection (c)" following "confidential"

SEC. 603.[81] OTHER REPORTS TO CONGRESS.

Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the[82] Secretary shall, on a quarterly basis, prepare and submit to the Committee on Agriculture and the Committee on Foreign Affairs[83] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report specifying the cumulative amount of export assistance provided by the Commodity Credit Corporation and the Secretary under the programs provided under this Act, the Commodity Credit Corporation Charter Act, and under the Agricultural Trade Development and Assistance Act of 1954 during the current fiscal year. Such information may be provided in individual reports, or in a consolidated report.[84]

TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM[85]

SEC. 701.[86] DEFINITION OF ELIGIBLE TRADE ORGANIZATION.

In this title, the term ''eligible trade organization'' means a United States trade organization that—

(1) promotes the export of 1 or more United States agricultural commodities or products; and

(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

SEC. 702.[87] FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.

(b) ADMINISTRATION.—Funds made available to carry out this title shall be used only to provide—

(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

SEC. 703.[88] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996 through 2002.

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[81] 7 U.S.C. 5713.

[82] Sec. 251 of Public Law 104–127 (110 Stat. 971) struck out ''The'' and inserted in lieu thereof ''Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the''.

[83] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[84] Sec. 241(c)(2) of Public Law 104–127 (110 Stat. 964) struck out ''in a consolidated report, or in the Long-Term Agricultural Trade Strategy Report (and annual updates to such report) prepared under section 601'', and inserted in lieu thereof '', or in a consolidated report''.

[85] Sec. 252 of Public Law 104–127 (110 Stat. 971) added title VII, secs. 701–703.

[86] 7 U.S.C. 5721.

[87] 7 U.S.C. 5722.

[88] 7 U.S.C. 5723.

3. Agricultural Act of 1980 and Related Material

a. Agricultural Trade Suspension Adjustment Act of 1980

Partial text of Public Law 96–494 [H.R. 3765], 94 Stat. 2570, approved December 3, 1980, as amended by Public Law 97–98 [Agriculture and Food Act of 1981, S. 884], 95 Stat. 1213 at 1260, approved December 22, 1981; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To increase the minimum price support loan rates for wheat, feed grains, and soybeans, to improve the farmer-held reserve program for wheat and feed grains, to establish a five-year food security wheat reserve, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1980".

TITLE I—WALNUT AND OLIVE MARKETING ORDERS

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TITLE II—AGRICULTURAL TRADE SUSPENSION ADJUSTMENT ACT OF 1980

SHORT TITLE

Sec. 201. This title may be cited as the "Agricultural Trade Suspension Adjustment Act of 1980".

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ADJUSTED PRICE SUPPORT LOAN LEVELS UNDER THE FARMER-HELD RESERVE PROGRAM FOR THE 1980 AND 1981 CROPS OF WHEAT AND FEED GRAINS

Sec. 203.[1] * * *

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AUTHORITY TO USE THE FUNDS, FACILITIES, AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION TO PURCHASE AGRICULTURAL PRODUCTS INTENDED TO BE EXPORTED TO THE SOVIET UNION

Sec. 206.[2] Notwithstanding any other provision of law, the Secretary of Agriculture may use, subject to such terms and conditions as the Secretary may deem appropriate, the funds, facilities, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that—

[1] Sec. 203 amended sec. 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e).
[2] 15 U.S.C. 714c note.

(1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but

(2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the export of agricultural products to the Union of Soviet Socialist Republics,

in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

SUPPLEMENTAL SET-ASIDE AUTHORITY

Sec. 207.[3] * * *

TRADE SUSPENSION RESERVES

Sec. 208.[4] Notwithstanding any other provision of law—

(a) Whenever the President or other member of the executive branch of Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 or any other provision of law and the Secretary of Agriculture determines that such suspension or restriction will result in a surplus supply of such commodity that will adversely affect prices producers receive for the commodity, the Secretary may establish a gasohol feedstock reserve or a feed security reserve, or both, of the commodity, as provided in subsections (c) and (d) of this section, if the commodity is suitable for stockpiling in a reserve.

(b) Within thirty days after the export of any agricultural commodity to a country or area is suspended or restricted as described in subsection (a) of this section, the Secretary of Agriculture shall announce whether a gasohol feedstock reserve or a food security reserve of the commodity, or both, will be established under this section and shall include in such announcement the amount of the commodity that will be placed in such reserves, which shall be that portion of the estimated exports of the commodity affected by the suspension or restriction, as determined by the Secretary, that should be removed from the market to prevent the accumulation of a surplus of the commodity that will adversely affect prices producers receive for the commodity.

(c)(1) To establish a gasohol feedstock reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in the production of alcohol for motor fuel through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

[3] Sec. 207 added a new sec. 113 to the Agricultural Act of 1949 (7 U.S.C. 1445h).
[4] 7 U.S.C. 4001.

(2) The Secretary of Agriculture may dispose of stocks of agricultural commodities acquired under paragraph (1) of this subsection only through sale—

(A) for use in the production of alcohol for motor fuel, at not less than the fuel conversion price (as defined in section 212 of this title) for the commodity involved: *Provided,* That, for wheat and feed grains, if the fuel conversion price for the commodity involved is less than the then current release price at which producers may repay producer storage loans on the commodity and redeem the commodity prior to the maturity dates of the loans, as determined under clause (5) of the second sentence of section 110(b) of the Agricultural Act of 1949, the Secretary may dispose of stocks of the commodity for such use only through sale, at not less than the release price: *Provided further,* That such sales shall only be made to persons for use in the production of alcohol for motor fuel at facilities that, whenever supplies of the commodity are not readily available, can produce alcohol from other agricultural or forestry biomass feedstocks; or

(B) for any other use, when sales for use under clause (A) of this paragraph are impracticable, (i) if there is a producer storage program in effect for the commodity, at not less than 110 per centum of the then current level at which the Secretary may encourage repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949,[5] or, (ii) if there is no producer storage program in effect for the commodity, at not less than the average market price producers received for the commodity at the time the trade suspension was imposed.

(d)(1) To establish a food security reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in providing emergency food assistance and urgent humanitarian relief through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2)[6] APPLICABILITY OF CERTAIN PROVISIONS.—Subsections (c), (d), (e), and (f)(2) of section 302 of the Food Security Commodity Reserve Act of 1996 shall apply to commodities in any reserve established under paragraph (1), except that the references to "eligible

[5] Sec. 1004 of Public Law 97–98 (95 Stat. 1213) amended clause (i) by raising the level from 105 to 110 per centum and stipulated that the Secretary may "encourage" repayment of producer storage loans rather than "call for" the repayment of such loans.

[6] Sec. 225(b) of Public Law 104–127 (110 Stat. 962) amended and restated para. (2). It formerly read as follows:

"(2) The provisions of subsections (c), (d), (e), (f), and (g)(2) of section 302 of the Food Security Wheat Reserve Act of 1980 shall apply to commodities in any reserve established under paragraph (1) of this subsection, and (except for the last sentence of subsection (c) of section 302) the references to 'wheat' in such subsections of section 302 shall be deemed to be references to 'agricultural commodities'.".

commodities" in the subsections shall be deemed to be references to "agricultural commodities".

(3) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(e) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposition of agricultural commodities under this section.

(f) The Secretary of Agriculture shall establish safeguards to ensure that stocks of agricultural commodities held in the reserves established under this section shall not be used in any manner or under any circumstance to unduly depress, manipulate, or curtail the free market.

(g) Whenever stocks of agricultural commodities are disposed of or released from reserves established under this section, as provided in subsections (c)(2) and (d)(2) of this section, the reserves may not be replenished with replacement stocks.

(h) The provisions of this section shall become effective with respect to any suspension of, or restriction on, the export of agricultural commodities, as described in subsection (a) of this section, implemented after the date of enactment of this Act.

ALCOHOL PROCESSOR GRAIN RESERVE

Sec. 209.[7] (a) As used in this section—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "processor" means any person engaged within the United States in the business of manufacturing grain into alcohol for use as a fuel either by itself or in combination with some other product.

(3) The terms "agricultural grain" and "grain" mean any agricultural commodity (A) that is suitable for processing into alcohol for use as a fuel, and (B) with respect to which a price support operation is in effect.

(4) The term "producer storage program" means the producer storage program provided for under section 110 of the Agriculture Act of 1949.

(5) The term "small scale biomass energy project" shall have the same meaning as defined in section 203(19) of the Energy Security Act.

(b) To assist processors in obtaining a dependable supply of grain at reasonable prices, the Secretary may formulate and administer a program under which processors purchasing and storing grain needed by them for manufacturing into alcohol for use as a fuel may obtain a loan from the Secretary on such grain. Loans under this section may be made available only to processors that (1) operate small scale biomass energy projects financed in whole or in part by the United States Government or any agency thereof, and (2) as determined by the Secretary, are otherwise unable to obtain a de-

[7] 7 U.S.C. 4002.

pendable supply of grain at reasonable prices for use in such projects.

(c) Except as otherwise provided in this section, loans made under this section to carry out the processor grain reserve program may be made on the same terms and conditions as loans made to carry out the producer storage program.

(d) The amount of the loan that the Secretary may make to an eligible processor at any time on any quantity of grain purchased by the processor shall be determined by multiplying the price support loan rate in effect for such grain at the time the loan is made times the quantity of grain purchased by the processor. The quantity of grain on which one or more loans may be outstanding at any time in the case of any processor may not exceed the estimated quantity of grain needed by such processor for one year of operation.

(e) Whenever any quantity of grain stored in the processor grain reserve under this section is removed from storage by a processor, the processor may be required to replace such grain with an equal quantity, within such period of time as the Secretary shall prescribe by regulation, or repay that portion of the loan represented by the quantity of grain removed from storage.

(f) Grain on which an eligible processor has received a loan under this section may not be used for any purpose other than the manufacture of alcohol for use as a fuel, and the Secretary shall establish such safeguards as the Secretary deems necessary to assure that such grain is not used for any other purpose and is not used in any manner that would unduly depress, manipulate, or curtail the free market in such grain.

(g) Loans made under this section shall be made subject to such terms and conditions and subject to such security as the Secretary deems appropriate, except that such loans may not be made as nonrecourse loans.

(h) In carrying out the processor grain reserve program under this section, the Secretary may—

(1) provide for the payment to processors of such amounts as the Secretary determines appropriate to cover the cost of storing grain held in the processor grain reserve, except that in no event may the rate of the payment paid under this clause for any period exceed the rate paid by the Secretary under the producer storage program for the same period; and

(2) prescribe conditions under which the Secretary may require processors to repay loans made under this section, plus accrued interest thereon, refund amounts paid to the processors for storage, and require the processors to pay such additional interest and other charges as may be required by regulation in the event any processor fails to abide by the terms and conditions of the loan or any regulation prescribed under this section.

(i) The Secretary shall announce the terms and conditions of the processor grain reserve program as far in advance of making loans as practicable.

(j) The Secretary may use the facilities of the Commodity Credit Corporation to carry out this section.

(k) There are authorized to be appropriated such sums as may be necessary to carry out this section. Any loans made under this section shall be made to such extent and such amounts as provided in appropriation Acts. The authority to make loans under this section shall expire five years after the effective date of this title.

STUDY OF THE POTENTIAL FOR EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS AND THE USE OF AGRICULTURAL EXPORTS IN OBTAINING NEEDED MATERIALS

Sec. 210.[8] (a) The Secretary of Agriculture, in consultation with the United States Trade Representative and any other appropriate agency of the United States Government as determined by the Secretary, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study before June 30, 1981.

(b) In performing the study, the Secretary shall determine for the next five years—

(1) world food, feed, and fiber needs;

(2) estimated United States and world food, feed, and fiber production capabilities;

(3) potential new or expanded foreign markets for United States agricultural products;

(4) the potential for the development of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

FOOD BANK DEMONSTRATION PROJECTS

Sec. 211.[9] (a) The Secretary of Agriculture shall carry out demonstration projects to provide agricultural commodities and other foods that might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law, the Secretary shall make available for purposes of such special nutrition[10] projects, agricultural commodities and other foods available to the Secretary under section 416 of the Agricultural Act of 1949, section 709 of the Food and Agriculture Act of 1965, and section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). For purposes of distributing agricultural commodities and other foods to community food banks under this section, the Secretary may, in consultation with State agencies, use food distribution systems currently

[8] 7 U.S.C. 4003.

[9] 7 U.S.C. 4004.

[10] Sec. 1114(b)(1) of Public Law 97–98 (95 Stat. 1269) substituted the words "special nutrition" in lieu of the word "demonstration".

used to distribute agricultural commodities and other foods under the National School Lunch Act and Child Nutrition Act of 1966. The Secretary shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the demonstration projects under this section. Food banks shall be selected for participation so as to ensure adequate geographic distribution of emergency food box programs in at least two but not more than seven Department of Agriculture regions.

(b)(1) No food bank may participate in the demonstration projects conducted under this section unless an application therefor is submitted to and approved by the Secretary. Such application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

(2) Each food bank participating in the special nutrition[10] projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) The Secretary shall submit to Congress a progress report on July 1, 1983, and a final report on January 1, 1984,[11] regarding the demonstration projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

(e) The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food provided under this section shall be subject to a fine of not more than $1,000 or imprisonment for not more than six months, or both.

(f)[12] The Secretary shall minimize paperwork requirements on food banks which participate in the special nutrition projects established under this section and shall otherwise encourage food banks to participate in such projects.

(g)[12] There is authorized to be appropriated such sums as may be necessary to carry out this section.

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[11] Sec. 1114(b) of Public Law 97–98 (95 Stat. 1269) changed the due date of this report (report originally due October 1, 1982).

[12] Sec. 1114(b) of Public Law 97–98 (95 Stat. 1269) redesignated existing subsec. (f) as subsec. (g) and added a new subsec. (f). Such amendment further revised the text of subsec. (g) as redesignated, by striking out an authorization level of $356,000 and substituting the current language.

DEFINITION OF FUEL CONVERSION PRICE

Sec. 212.[13] As used in this title, the phrase "fuel conversion price" means the price for an agricultural commodity determined by the Secretary of Agriculture that will permit gasoline-alcohol mixtures using alcohol produced from the commodity to be competitive in price with unleaded gasoline priced at the point it leaves the refinery, adjusted for differences in octane rating, taking into consideration the energy value of the commodity and other appropriate values designed to represent, on a national average basis, the value of byproducts also recoverable from the commodity; the direct costs and capital recovery costs for a grain alcohol distillery capable of producing forty million gallons of alcohol and recovering byproducts annually; and Federal tax and other Federal incentives applicable to alcohol used for fuel.

EFFECTIVE DATE

Sec. 213. Except as otherwise provided herein, this title shall become effective October 1, 1980, or the date of enactment, whichever is later.

[13] 7 U.S.C. 4005.

b. Food Security Commodity Reserve Act of 1996 [1]

Partial text of Public Law 96–494 [H.R. 3765], 94 Stat. 2570 at 2578, approved December 3, 1980; as amended by Public Law 99–198 [Food Security Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

TITLE III—FOOD SECURITY COMMODITY RESERVE [1]

SEC. 301.[2] SHORT TITLE.

This title may be cited as the "Food Security Commodity Reserve Act of 1996".

SEC. 302.[3] ESTABLISHMENT OF COMMODITY RESERVE.

(a) IN GENERAL.—To provide for a reserve solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this title as the "Secretary") shall establish a reserve stock of wheat, rice, corn, or sorghum, or any combination of the commodities, totaling not more than 4,000,000 metric tons for use as described in subsection (c).

(b) COMMODITIES IN RESERVE.—

(1) IN GENERAL.—The reserve established under this section shall consist of—

(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

(B) wheat, rice, corn, and sorghum (referred to in this section as "eligible commodities") acquired in accordance with paragraph (2) to replenish eligible commodities released from the reserve, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996; and

(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the reserve established under this section.

(2) REPLENISHMENT OF RESERVE.—

[1] Formerly the Food Security Wheat Reserve Act of 1980, sec. 225(a) of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 959) amended and restated the entire title III.

[2] 7 U.S.C. 1736f–1 note.

[3] 7 U.S.C. 1736f–1.

(A) IN GENERAL.—Subject to subsection (h), commodities of equivalent value to eligible commodities in the reserve established under this section may be acquired—

(i) through purchases—

(I) from producers; or

(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

(B) FUNDS.—Any use of funds to acquire eligible commodities through purchases from producers or in the market to replenish the reserve must be authorized in an appropriations Act.

(c) RELEASE OF ELIGIBLE COMMODITIES.—

(1) EMERGENCY ASSISTANCE.—

(A) In general.—Notwithstanding paragraph (2), to meet unanticipated need, the Secretary may release eligible commodities in any fiscal year, without regard to the availability of domestic supply of the commodities, to provide emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

(B) RELEASE FOR EMERGENCY ASSISTANCE.—If the eligible commodities needed to meet unanticipated need cannot be made available in a timely manner under normal means for obtaining eligible commodities for food assistance because of unanticipated need for emergency assistance as provided under section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)), the Secretary may in any fiscal year release from the reserve—

(i) up to 500,000 metric tons of wheat or the equivalent value of eligible commodities other than wheat; and

(ii) up to 500,000 metric tons of any eligible commodities under this paragraph that could have been released but were not released in prior fiscal years.

(C) WAIVER OF MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph shall require a waiver under section 204(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)(3)) as a prerequisite for the release of eligible commodities under this paragraph.

(2) EMERGENCY FOOD ASSISTANCE.—Notwithstanding any other provision of law, eligible commodities designated or acquired for the reserve established under this section may be released by the Secretary to provide, on a donation or sale basis, emergency food assistance to developing countries at such time as the domestic supply of the eligible commodities is so limited that quantities of the eligible commodities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) (other

than disposition for urgent humanitarian purposes under section 401 of the Act (7 U.S.C. 1731)).

(3) PROCESSING OF ELIGIBLE COMMODITIES.—Eligible commodities that are released from the reserve established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

(4) EXCHANGE.—The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

(5) USE OF NORMAL COMMERCIAL PRACTICES.—To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

(d) MANAGEMENT OF ELIGIBLE COMMODITIES.—The Secretary shall provide—

(1) for the management of eligible commodities in the reserve established under this section as to location and quality of eligible commodities needed to meet emergency situations; and

(2) for the periodic rotation or replacement of stocks of eligible commodities in the reserve to avoid spoilage and deterioration of the commodities.

(e) TREATMENT OF RESERVE UNDER OTHER LAW.—Eligible commodities in the reserve established under this section shall not be—

(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

(2) subject to any quantitative limitation on exports that may be imposed under section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406).

(f) USE OF COMMODITY CREDIT CORPORATION.—

(1) IN GENERAL.—Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

(B) BASIS FOR REIMBURSEMENT.—The reimbursement shall be made on the basis of the lesser of—

(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the reserve.

(C) SOURCE OF FUNDS.—The reimbursement may be made from funds appropriated for subsequent fiscal years.

(g) FINALITY OF DETERMINATION.—Any determination by the Secretary under this section shall be final.

(h) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—The authority to replenish stocks of eligible commodities to maintain the reserve established under this section shall terminate on September 30, 2002.

(2) DISPOSAL OF ELIGIBLE COMMODITIES.—Eligible commodities remaining in the reserve after September 30, 2002, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.

c. Food Security Wheat Reserve

Executive Order 12266, January 15, 1981, 46 F.R. 4667, 7 U.S.C. 1736f–1 note

By the authority vested in me as President of the United States of America by Section 302(a) of the Food Security Wheat Reserve Act of 1980 (Title III of the Agricultural Act of 1980 (Public Law 96–494)),[1] it is hereby ordered as follows:

1–101. There is hereby established a Food Security Wheat Reserve composed of a reserve stock of wheat, which shall not exceed four million metric tons.

1–102. The Secretary of Agriculture is responsible for designating, in accordance with Section 302 of the Food Security Wheat Reserve Act of 1980, the specific reserve stocks of wheat which shall comprise the Food Security Wheat Reserve.

[1] Amended and restated. See Food Security Commodity Reserve Act of 1996, page 1078.

4. Agriculture and Food Act of 1981

Partial text of Public Law 97–98 [S. 884], 95 Stat. 1213 at 1274; as amended by Public Law 98–412 [Agricultural Trade and Export Policy Commission Act, H.J. Res. 600], 98 Stat. 1576, approved August 30, 1984; Public Law 99–198 [Food for Progress Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To provide price and income protection for farmers, assure consumers an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Agriculture and Food Act of 1981".

* * * * * * *

TITLE XII—AGRICULTURAL EXPORTS AND PUBLIC LAW 480

SUBTITLE A—GENERAL EXPORT PROVISIONS

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

Sec. 1201.[1] *** * ***

CONGRESSIONAL CONSULTATION ON BILATERAL COMMODITY SUPPLY AGREEMENTS

Sec. 1202.[2] As soon as practicable before the Government of the United States enters into any bilateral international agreement, other than a treaty, involving a commitment on the part of the United States to assure access by a foreign country or instrumentality thereof to United States agricultural commodities or products thereof on a commercial basis, the President is encouraged to notify and consult with the appropriate committees of Congress for the purpose of setting forth in detail the terms of and reasons for negotiating such agreement.

SPECIAL STANDBY EXPORT SUBSIDY PROGRAM

Sec. 1203.[3] * * * [Repealed—1990]

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[1] Sec. 1201 amended sec. 4 of the Food for Peace Act of 1966 (Public Law 89–808) by adding a new subsec. (d) which established the Agricultural Export Credit Revolving Fund.

[2] 7 U.S.C. 1736h.

[3] Secs. 1203, 1204, and 1205 (7 U.S.C. 1736i, 1736j, 1736k) were repealed by sec. 1573 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

AGRICULTURAL EMBARGO PROTECTION

Sec. 1204.[3] * * * [Repealed—1990]

DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EXPORT EMBARGOES ON AGRICULTURAL COMMODITIES

Sec. 1205.[3] * * * [Repealed—1990]

CONSULTATION ON GRAIN MARKETING

Sec. 1206.[4] Congress encourages the Secretary of Agriculture, in coordination with other appropriate Federal departments and agencies, to continue to consult with representatives of other major grain exporting nations toward the goal of establishing more orderly marketing of grain and achieving higher farm income for producers of grain.

Sec. 1207.[5] * * * [Repealed—1996]

(1) use the intermediate credit program authorized under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a) to improve the capability of importing nations to purchase and use United States agricultural commodities and the products thereof on a long-term basis;

(2) ask Congress, at the earliest practicable date, for funds for the agricultural export credit revolving fund in an amount sufficient to meet the demand for short-term credit authorized to be made available under section 4 of the Food for Peace Act of 1966;

(3) establish, insofar as practicable, the maximum number of United States Agricultural Trade Offices in other nations authorized by section 605A of the Act of August 28, 1954 (7 U.S.C. 1765a);

(4) use, to the maximum extent practicable, existing authority to ensure full utilization of the levy-free quota, established during the Tokyo round of the multilateral trade negotiations, for the export sale of United States high quality beef to the European Economic Community;

(5) expand, to the fullest extent possible, the market development activities of the Foreign Agricultural Service of the Department of Agriculture in developed, developing, market, and nonmarket foreign countries with particular emphasis on (A) continuation of the cooperator programs at the same funding level (adjusted for inflation) as provided during fiscal year 1970; (B) a more active export market development program for value added farm products and processed foods; and (C) the implementation of a full-scale program for forestry products, including commodity information, trade policy, and market development for such products;

(6) ensure that the European Economic Community observes its commitments under the General Agreement on Tariffs and

[4] 7 U.S.C. 1736*l*.

[5] Formerly at 7 U.S.C. 1736m. Sec. 1207, expressing sense of the Congress regarding the expansion of international markets for U.S. agricultural commodities and products, was repealed by sec. 266 of Public Law 104–127 (110 Stat. 974).

Trade regarding the tariff-free binding on imports of soybeans and corn gluten feed;

(7) consult with the appropriate officials of the Government of Japan with the objective of increasing the export sales of citrus fruits and high quality beef to Japan and to develop mutually acceptable standards for the certification of lettuce and other specialty crops for export to Japan; and

(8) use the authority under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to establish a special standby export subsidy program for United States agricultural commodities and the products thereof, the export of which has been restricted by foreign government subsidies.

(b) It is further declared to be the sense of Congress that any special standby export subsidy program established by the Secretary of Agriculture pursuant to subsection (a)(8) of this section should be (1) consistent with United States international obligations, and (2) designed to neutralize the effects of those foreign agricultural commodity subsidy programs that—

(A) the President has determined, pursuant to section 301 of the Trade Act of 1974 (19 U.S.C. 2411), are acts, policies, or practices described in section 301(a) of such Act that should be eliminated by appropriate action of the United States; and

(B) have, as the result of the appropriate dispute settlement procedures, been found to be in violation of the General Agreement on Tariffs and Trade or the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), if applicable.

Sec. 1208.[6] * * * [Repealed—1996]

EXEMPTION FOR PROTEIN BYPRODUCTS

Sec. 1209.[7] *** * ***

SUBTITLE B—PUBLIC LAW 480[8]

SELF-HELP MEASURES TO INCREASE AGRICULTURAL PRODUCTION; VERIFICATION OF SELF-HELP PROVISIONS

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SUBTITLE C—AGRICULTURAL TRADE AND EXPORT POLICY COMMISSION ACT[9]

SHORT TITLE

Sec. 1217.[9] This subtitle may be cited as the "Agricultural Trade and Export Policy Commission Act".

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[6] Formerly at 7 U.S.C. 1736n. Sec. 226 of Public Law 104–127 (110 Stat. 962) repealed sec. 1208, which had, in part, required the Secretary of Agriculture to report annually on efforts being made to make available protein byproducts derived from alcohol fuel production.

[7] Sec. 1209 amended the Act entitled "An Act authorizing Commodity Credit Corporation to purchase flour and cornmeal and donating same for certain domestic and foreign purposes" (7 U.S.C. 1431 note).

[8] Subtitle B amended Public Law 480.

[9] 7 U.S.C. 1691 note. Public Law 98–412 (98 Stat. 1576) added subtitle C (sec. 1217–1223).

FINDINGS AND DECLARATION OF POLICY

Sec. 1218.[9] (a) Congress finds that—

(1) the economic well-being of the Nation's agricultural industry is directly related to its ability to compete in international markets; and

(2) a thorough examination of agriculture-related trade and export policies, programs, and practices of the United States is needed to ensure that such policies, programs, and practices increase the competitiveness of United States agricultural commodities and products in international markets.

(b) It is hereby declared to be the policy of Congress to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports.

ESTABLISHMENT

Sec. 1219.[9] (a) There is established a National Commission on Agricultural Trade and Export Policy to conduct a study of the agriculture-related trade and export policies, programs, and practices of the United States.

(b) In addition to the ex officio congressional members specified in subsection (c) of this section, the Commission shall be composed of twenty-three members appointed or designated by the President and selected as follows:

(1) The President shall select three members from among officers or employees of the Executive branch who shall serve in an ex officio capacity without voting rights; and

(2) The President pro tempore of the Senate and the Speaker of the House of Representatives shall each select then members from among private citizens of the United States to represent industries that are directly affected by agriculture-related trade and export policies, programs, and practices of the United States, including, but not limited to, the following:

(A) producers of major agricultural commodities in the United States;

(B) processors or refiners of United States agricultural commodities;

(C) exporters, transporters, or shippers of United States agricultural commodities and products to foreign countries;

(D) suppliers of production equipment or materials to United States farmers;

(E) providers of financing or credit for domestic and export agricultural purposes; and

(F) organizations representing general farm and rural interests in the United States.

(c) The chairmen and ranking minority members of the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, the House Committee on Foreign Affairs,[10] the Senate Committee on Foreign Relations, the House Committee on Ways and Means, and the Senate Committee on Finance shall

[10] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

serve as ex officio members of the Commission and shall have the same voting rights as the members of the Commission selected and appointed under the provisions of subsection (b)(2) of this section. The chairmen and ranking minority members may designate other members of their respective committees to serve in their stead as members of the Commission.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) The Commission shall elect a chairman from among the members of the Commission who are selected and appointed under the provisions of subsection (b)(2) of this section.

(f) The Commission shall meet at the call of the chairman or a majority of the Commission.

CONDUCT OF STUDY

Sec. 1220.[9] The Commission shall study the agriculture-related trade and export policies, programs, and practices of the United States and the international and domestic factors affecting such policies, programs, and practices, including the intergovernmental activities of the United States that affect the formulation of policies. In conducting the study, the Commission shall consider, among other things, the following:

(1) the effectiveness of existing agricultural export assistance programs, and the manner in which they can be improved;

(2) new export assistance programs that should be considered, and the conditions under which they can be implemented;

(3) practices of foreign countries that impede the export of United States agricultural commodities and products, and appropriate responses for the United States;

(4) the effectiveness of the trade agreements program of the United States with respect to agriculture-related trade and exports, and the manner in which it can be improved;

(5) international economic trends that affect agricultural exports, and the manner in which the United States can best adjust its policies, programs, and practices to meet changing economic conditions;

(6) potential areas of conflict and compatibility between international agricultural trade and foreign food assistance programs, and the manner in which any conflict can be resolved; and

(7) the relationship between international agricultural trade and foreign economic development and food programs, and the manner in which they can be made more compatible.

RECOMMENDATIONS AND REPORTS

Sec. 1221.[9] (a) On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the President and Congress with respect to the agriculture-related trade and export policies, programs, and practices of the United States, and the manner in which such policies, programs, and practices can be improved to better develop, maintain and expand markets for United States agricultural exports.

(b) The Commission shall submit to the President and Congress—

(1) a report containing its initial findings and recommendations by March 31, 1985,

(2) such additional interim reports on its work as may be requested by the chairman of any of the Committees set forth in section 1219(c) of this subtitle, and

(3) a report containing the final results of its study and its recommendations therefrom by July 1, 1986.

ADMINISTRATION

Sec. 1222.[9] (a) The heads of Executive agencies, the General Accounting Office, the International Trade Commission, and the Congressional Budget Office shall, to the extent permitted by law, provide the Commission such information as it may require in carrying out its duties and functions.

(b) Members of the Commission shall serve without any additional compensation for work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service under sections 5701 through 5707 of title 5, United States Code.

(c) To the extent there are sufficient funds available to the Commission in advance under section 1223 of this subtitle, and subject to such rules as may be adopted by the Commission, the chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of such additional staff personnel as the Commission determines necessary to carry out its duties and functions.

(d) Upon request of the Commission, the Secretary of Agriculture shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out its duties and functions.

(e) Upon request of the Commission, the heads of other Executive agencies and the General Accounting Office are each authorized to furnish the Commission with such personnel and support services as the head of the agency or office and the chairman of the Commission agree are necessary to assist the Commission in carrying out its duties and functions.

(f) The Commission shall not be required to pay or reimburse any agency or office for personnel and support services provided under this section.

(g) In accordance with section 12 of the Federal Advisory Committee Act, the Secretary of Agriculture shall maintain such financial records as will fully disclose the disposition of any funds that may be at the disposal of the Commission and the nature and extent of its activities, and the Comptroller General of the United

States, or any of the Comptroller General's authorized representatives, shall have access to such records for the purpose of audit and examination.

(h) The Commission shall be exempt from section 7(d), section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act.

(i) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5, United States Code.

PUBLIC SUPPORT

Sec. 1223.[9] (a) Following the appointment or designation of the members of the Commission, notwithstanding the provisions of section 1342 of title 31, United States Code, the Secretary of Agriculture may receive, from persons, corporations, foundations, and all other groups and entities within the United States, contributions of money and services to assist the Commission in carrying out its duties and functions. Any money contributed under this section shall be available to the Commission for the payment of salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle. In no event may the contributions from any one person, corporation, foundation, or other group or entity exceed 5 per centum of the Commission's total budget.

(b) If the contributions provided under subsection (a) are insufficient for payment of Commission salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle, the Secretary of Agriculture is authorized to use the funds of the Commodity Credit Corporation for such purposes in an amount not to exceed a total of $1,000,000.

(c) The Secretary of Agriculture shall keep, and shall make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

(d) Any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission shall be deposited in the Treasury as miscellaneous receipts.

TERMINATION

Sec. 1224.[9] The Commission shall terminate sixty days after the transmission of its final report to the President and Congress.

5. International Carriage of Perishable Foodstuffs Act

Public Law 97–325 [H.R. 6164], 96 Stat. 1603, approved October 15, 1982; amended by Public Law 103–354 [Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994; H.R. 4217], 108 Stat. 3178, approved October 13, 1994

AN ACT To authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Carriage of Perishable Foodstuffs Act".

FINDINGS AND PURPOSE

Sec. 2.[1] Congress hereby finds and declares that—

(1) the United States, as a member of the Economic Commission for Europe of the United Nations, participated in development by that Commission of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage;

(2) the agreement requires that equipment involved in the international carriage of perishable foodstuffs be inspected, tested, and certified to specified standards;

(3) this Act will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein; and

(4) this Act will improve the conditions for the movement of perishable foodstuffs in international carriage in equipment owned or operated by United States firms, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs, and will improve the sale of United States manufactured equipment for use in international carriage.

DEFINITIONS

Sec. 3.[2] As used in this Act—

(1) The term "agreement" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage, and the annexes and the appendices thereto, done at Geneva, September 1, 1970, under the auspices of the Economic Commission for Europe of the United Nations.

(2) The term "contracting party" means any country that is eligible under article 9 of the agreement and that has complied with the terms of such article.

[1] 7 U.S.C. 4401.
[2] 7 U.S.C. 4402.

(3) The term "equipment" means the special transport equipment that complies with the definitions and standards set forth in annex 1 to the agreement, including, but not limited to, railway cars, trucks, trailers, semitrailers, and intermodal freight containers that are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance.

(4) The term "perishable foodstuffs" means quick deep-frozen and frozen food products listed in annex 2 and food products listed in annex 3 to the agreement.

(5) The term "international carriage" means transportation of perishable foodstuffs if such foodstuffs are loaded in equipment or the equipment containing them is loaded onto a rail or road vehicle, in the territory of any country and such foodstuffs are, or the equipment containing them is, unloaded in the territory of another country that is a contracting party, where such transportation is by—

(A) rail,

(B) road,

(C) any combination of rail and road, or

(D) any sea crossing of less than one hundred and fifty kilometers, if preceded or followed by one or more land journeys as referred to in clauses (A), (B), and (C) of this paragraph, and the perishable foodstuffs are shipped in the same equipment used for such land journeys without transloading of such foodstuffs.

In the case of any transportation that involves one or more sea crossings other than as specified in clause (D) of this paragraph, each land journey shall be considered separately.

(6) The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

DUTIES OF THE SECRETARY OF AGRICULTURE

Sec. 4.[3] The Secretary of Agriculture of the United States shall be the competent authority to implement the agreement. To ensure compliance with the standards specified in the agreement, the Secretary of Agriculture may—

(1) designate appropriate organizations to inspect or test equipment, or both;

(2) issue certificates of compliance in accordance with annex 1, appendix 1, paragraph 4 of the agreement;

(3) prescribe such regulations as may be necessary to implement the agreement and administer this Act, including, but not limited to, provision for suspending or denying the designation of any organization to inspect or test equipment and for denying the issuance of certificates of compliance as may be necessary to ensure compliance with the provisions of this Act and the regulations issued thereunder;

[3] 7 U.S.C. 4403.

(4) make periodic onsite inspections of facilities and procedures used by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

(5) require submission of reports by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

(6) require maintenance of records by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act, such records to be made available to the Secretary upon request;

(7) inform contracting parties, through the Secretary of State of the United States, of all general measures taken in connection with the implementation of the agreement; and

(8) take such other action as may be considered appropriate to implement the agreement and administer this Act.

DUTIES OF THE SECRETARY OF STATE

Sec. 5.[4] The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as may be considered appropriate to assert and protect the rights of the United States under the agreement.

FEES FOR TESTING, INSPECTION OR CERTIFICATION

Sec. 6.[5] (a) Any organization designated by the Secretary of Agriculture to test or inspect equipment may establish reasonable fees to cover the costs of such testing or inspection. Such fees shall be payable directly to the organization by those seeking inspection or testing.

(b) The Secretary of Agriculture may, effective October 1, 1982, fix and cause to be collected reasonable fees to cover, as nearly as practicable, the costs to the Department of Agriculture incurred in connection with the issuance of certificates of compliance as provided under section 4(2) of this Act. All fees collected shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary of Agriculture incident to the issuance of certificates of compliance under this Act.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 7.[6] There are authorized to be appropriated to the Secretary of Agriculture for the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, such sums as are necessary to carry out the provisions of this Act, but not to exceed $100,000 in any fiscal year.

[4] 7 U.S.C. 4404.
[5] 7 U.S.C. 4405.
[6] 7 U.S.C. 4406.

ASSISTANT SECRETARY OF AGRICULTURE

Sec. 8.[7] * * * [Repealed—1994]

[7] Formerly at 7 U.S.C. 2212c. Sec. 218 of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3212) authorized the Secretary of Agriculture to establish Assistant Secretaries for Congressional Relations, Administration, and Marketing and Regulatory Programs, and repealed sections in law superseded by such authorization. See 7 U.S.C. 6918.

6. Pesticide Monitoring Improvements Act of 1988

Partial text of Title IV of Public Law 100–418 [H.R. 4848], 102 Stat. 1107 at 1411, approved August 23, 1988

AN ACT To enhance the competitiveness of American industry, and for other purposes.

* * * * * * *

SUBTITLE G—PESTICIDE MONITORING IMPROVEMENTS

SEC. 4701.[1] SHORT TITLE.

This subtitle may be cited as the "Pesticide Monitoring Improvements Act of 1988".

SEC. 4702. * * *

SEC. 4703.[2] FOREIGN PESTICIDE INFORMATION.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Health and Human Services shall enter into cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration for the purpose of improving the ability of the Food and Drug Administration to assure compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act with regard to imported food.

(b) INFORMATION ACTIVITIES.—

(1) The cooperative agreements entered into under subsection (a) with governments of foreign countries shall specify the action to be taken by the parties to the agreements to accomplish the purpose described in subsection (a), including the means by which the governments of the foreign countries will provide to the Secretary of Health and Human Services current information identifying each of the pesticides used in the production, transportation, and storage of food products imported from production regions of such countries into the United States.

(2) In the case of a foreign country with which the Secretary is unable to enter into an agreement under subsection (a) or for which the information provided under paragraph (1) is insufficient to assure an effective pesticide monitoring program, the Secretary shall, to the extent practicable, obtain the information described in paragraph (1) with respect to such country from other Federal or international agencies or private sources.

(3) The Secretary of Health and Human Services shall assure that appropriate offices of the Food and Drug Administration which are engaged in the monitoring of imported food for

[1] 21 U.S.C. 1401 note.
[2] 21 U.S.C. 1402.

pesticide residues receive the information obtained under paragraph (1) or (2).

(4) The Secretary of Health and Human Services shall make available any information obtained under paragraph (1) or (2) to State agencies engaged in the monitoring of imported food for pesticide residues other than information obtained from private sources the disclosure of which to such agencies is restricted.

(c) COORDINATION WITH OTHER AGENCIES.—The Secretary of Health and Human Services shall—

(1) notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State at the initiation of negotiations with a foreign country to develop a cooperative agreement under subsection (a); and

(2) coordinate the activities of the Department of Health and Human Services with the activities of those departments and agencies, as appropriate, during the course of such negotiations.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives on the activities undertaken by the Secretary to implement this section. The report shall be made available to appropriate Federal and State agencies and to interested persons.

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C. THE PEACE CORPS

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The Peace Corps was initially established pursuant to Executive Order 10924, March 1, 1961, 26 F.R. 1789, as an agency in the Department of State, under authority of the Mutual Security Act of 1954, as amended. Pursuant to that order, Department of State Delegation of Authority No. 85–11, March 3, 1961, 26 F.R. 2196, and Department of State Redelegation of Authority No. 85–10B, March 4, 1961, 26 F.R. 2196, the Peace Corps was empowered to exercise authority under section 400(a) of the Mutual Security Act of 1954, as amended ("Special Assistance"), and under certain other provisions of that act. Its operations were funded from appropriations available under the Mutual Security Act and Mutual Security Program funds appropriated by the joint resolution making temporary appropriations for fiscal year 1962. The authorities, functions, offices, personnel, property, records, and funds available to the Peace Corps were preserved, pending enactment of the Peace Corps Act, by section 643(d) of the Foreign Assistance Act of 1961, notwithstanding the repeal by that act of much of the Mutual Security Act of 1954, as amended. Section 643(d) was repealed by the Foreign Assistance Act of 1962. Pursuant to Executive Order 11603 of July 1, 1971 (36 F.R. 12675), the Peace Corps was transferred to the agency created by Reorganization Plan No. 1 of 1971 and designated as ACTION. The ACTION Agency was established by law under Title IV of the Domestic Volunteer Service Act of 1973. Executive Order 12137 of May 16, 1979 superseded Executive Order 11603 but continued the policy of the Peace Corps operating as an agency within ACTION. Sec. 601 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113), in amending the Peace Corps Act, removed the Peace Corps from ACTION and established the Peace Corps as an independent agency within the executive branch, effective December 29, 1981. All functions relating to the Peace Corps previously vested in the Director of ACTION were transferred to the Director of the Peace Corps on the day before the effective date.

1. The Peace Corps Act, as amended

Public Law 87–293 [H.R. 7500], 75 Stat. 612, 22 U.S.C. 2501–2523, approved September 22, 1961; as amended by Public Law 87–442 [H.R. 10700], 76 Stat. 62, approved April 27, 1962; Public Law 87–793 [H.R. 7927], 76 Stat. 632, approved October 11, 1962; Public Law 88–200 [H.R. 9009], 77 Stat. 359, approved December 13, 1963; Public Law 88–285 [S. 2455], 78 Stat. 166, approved March 17, 1965; Public Law 88–426 [H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88–448 [H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 89–134 [S. 2054], 79 Stat. 59, approved August 24, 1965; Public Law 89–554 [H.R. 10104], 80 Stat. 378, approved September 6, 1966; Public Law 89–572 [S. 3418], 80 Stat. 764, approved September 13, 1966; Public Law 90–175 [S. 1031], 81 Stat. 542, approved December 5, 1967; Public Law 90–362 [S. 2914], 82 Stat. 250, approved June 27, 1968; Public Law 91–99 [H.R. 11039], 83 Stat. 166, approved October 29, 1969; Public Law 91–352 [S. 3430], 84 Stat. 464, approved July 24, 1970; Public Law 92–135 [S. 2260], 85 Stat. 376, approved October 8, 1971; Public Law 92–352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93–49 [H.R. 5293], 87 Stat. 99, approved June 25, 1973; Public Law 93–302 [H.R. 12920], 88 Stat. 191, approved June 1, 1974; Public Law 94–130 [H.R. 6334], 89 Stat. 684, approved November 14, 1975; Public Law 94–274 [S. 2444], 90 Stat. 383, approved April 21, 1976; by Public Law 94–281 [H.R. 12226], 90 Stat. 458, approved May 7, 1976; Public Law 95–102 [S. 1235] 91 Stat. 841, approved August 15, 1977; Public Law 95–331 [H.R. 11877], 92 Stat. 414, approved August 2, 1978; Public Law 96–53 [International Development Cooperation Act of 1979; H.R. 3324], 93 Stat. 359 at 370, approved August 14, 1979; Public Law 96–465 [Foreign Service Act of 1980; H.R. 6790], 94 Stat. 2071 at 2157 and 2160, approved October 17, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980; H.R. 6942], 94 Stat. 3131 at 3155, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519 at 1540, approved December 29, 1981; Public Law 97–387 [S. 2611], 96 Stat. 1947, approved December 23, 1982; Public Law 98–473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; by Public Law 99–83 [International Security and Development Cooperation Act of 1985; S. 960], 99 Stat. 190 at 272, approved August 8, 1985, by Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 897, approved August 27, 1986; Public Law 100–202 [Continuing Appropriations Act for Fiscal Year 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–565 [S. 3309], 106 Stat. 4265, approved October 28, 1992; Public Law 103–82 [National and Community Service Trust Act of 1993; H.R. 2010], 107 Stat. 785, approved September 21, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and by Public Law 105–12 [Assisted Suicide Funding Restriction Act of 1997; H.R. 1003], 111 Stat. 23, approved April 30, 1997

AN ACT To provide for a Peace Corps to help the peoples of interested countries and areas in meeting their needs for skilled manpower.

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

TITLE I—THE PEACE CORPS

SHORT TITLE

Section 1.[1] This Act may be cited as the "Peace Corps Act".

DECLARATION OF PURPOSE

Sec. 2.[2] (a)[3] The Congress of the United States declares that it is the policy of the United States and the purpose of this Act to promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower, particularly in meeting the basic needs of those living in the poorest areas of such countries,[4] and to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people.

(b)[3] The Congress declares that it is the policy of the United States and a purpose of the Peace Corps to maintain, to the maximum extent appropriate and consistent with programmatic and fiscal considerations, a volunteer corps of at least 10,000 individuals.

PEACE CORPS AS AN INDEPENDENT AGENCY

Sec. 2A.[5] Effective on the date of the enactment of the International Security and Development Cooperation Act of 1981, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION Agency, the successor to the ACTION Agency,[6] or any other department or agency of the United States.

AUTHORIZATION

Sec. 3.[7] (a) The President is authorized to carry out programs in furtherance of the purposes of this Act, on such terms and conditions as he may determine.

(b)[8] AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this Act

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[1] 22 U.S.C. 2501 note.

[2] 22 U.S.C. 2501.

[3] The subsec. designation "(a)" and a new subsec. (b) were added by sec. 1102(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272).

[4] The words beginning with "particularly in meeting * * *" were added by sec. 2 of Public Law 95–331 (92 Stat. 414).

[5] 22 U.S.C. 2501–1. Sec. 2A was added by sec. 601(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1540). For additional information concerning the establishment of the Peace Corps as an independent agency, see text of sec. 601 of Public Law 97–113.

[6] Sec. 405(e) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 921) inserted ", the successor to the ACTION Agency," after "the ACTION Agency".

[7] 22 U.S.C. 2502.

[8] Sec. 1 of Public Law 102–565 (106 Stat. 4265) amended and restated subsec. (b).

Authorizations in prior years for the Peace Corps include: fiscal year 1976—$88,468,000; fiscal year 1977T—$27,887,800; fiscal year 1977—$81,000,000; fiscal year 1978—$86,544,000 (increased from $82,900,000 by Public Law 95–331); fiscal year 1979—$112,424,000; fiscal year 1980—$105,404,000; fiscal year 1981—$118,000,000; fiscal year 1982—$105,000,000; fiscal year 1983—$105,000,000; fiscal year 1984—$116,000,000; fiscal year 1985—none enacted; fiscal year 1986—$130,000,000; fiscal year 1987—$137,200,000; fiscal year 1988—none enacted; fiscal year

$218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.

(c)[9] In addition to the amount authorized to be appropriated by subsection (b) to carry out the purposes of this Act, there are authorized to be appropriated for increases in salary, pay, retirement, or other employee benefits authorized by law, each fiscal year,[10] such sums as may be necessary.

(d)[11] * * * [Repealed—1981]

(e)[11] * * * [Repealed—1981]

(f)[11] * * * [Repealed—1981]

(d)[12] In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process, the Peace Corps shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economics of developing countries, thus improving their status and assisting the total development effort.

1989—none enacted; fiscal year 1990—none enacted; fiscal year 1991—none enacted; fiscal year 1992—none enacted; fiscal year 1994—$219,745,000; fiscal year 1995—$234,745,000; fiscal year 1996—none enacted; fiscal year 1997—none enacted; fiscal year 1998—none enacted.

Sec. 601 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (108 Stat. 490), authorized to be appropriated $219,745,000 for fiscal year 1994 and $234,745,000 for fiscal year 1995 to carry out this Act.

Titles II and V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2397, 2406), provided the following:

"PEACE CORPS

"For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $222,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1999.

* * * * * * *

"LIMITATION ON REPRESENTATIONAL ALLOWANCES

"SEC. 505. Of the funds appropriated or made available pursuant to this Act, * * * *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses:".

[9] Subsec. (c) was added by sec. 2 of Public Law 93–302 (88 Stat. 191) and amended by sec. 2 of Public Law 94–130, sec. 2 of Public Law 94–281, and Public Law 95–102 (91 Stat. 841).

[10] The reference to "each fiscal year" was inserted in lieu of a reference to fiscal year 1981 by sec. 602(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542). Authorizations for prior years under this subsection included: fiscal years 1978—$1,069,000 (increased from $1,000,000 by Public Law 95–331); fiscal years 1979, 1980, and 1981—"such sums as may be necessary".

[11] Subsecs. (d), (e), and (f) were repealed by sec. 601(e)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542). Sec. 601(e)(2) of Public Law 97–113 further stated that such repeals shall not affect "(A) the validity of any action taken before the date of the enactment of this Act [Dec. 29, 1981] under those provisions of law repealed by that amendment, or (B) the liability of any person for any payment described in section 3(f) of the Peace Corps Act as in effect immediately before the date of the enactment of this Act.". Subsec. (d), as added by sec. 2 of Public Law 93–302 and amended by sec. 3 of Public Law 94–130, had stipulated that the Director of ACTION should transfer by Dec. 31, 1975, $315,000 from the fiscal year 1976 appropriations to the readjustment allowance, ACTION, account at the Treasury Department in order to rectify the imbalance in the Peace Corps readjustment allowance account for the period Mar. 1, 1961, to Feb. 28, 1973. Subsec. (e), as added by sec. 2 of Public Law 93–302 (88 Stat. 191), had authorized the Director of ACTION to waive claims resulting from erroneous payments of readjustment allowances to Peace Corps volunteers who terminated their service between Mar. 1, 1961, and Feb. 28, 1973. Subsec. (f), also added by sec. 2 of Public Law 93–302, had relieved disbursing and certifying officers of the Peace Corps and ACTION from liability for improper or incorrect payment of readjustment allowances made to Volunteers between Mar. 1, 1961, and Feb. 28, 1973, except in the case of fraud.

[12] Subsec. (d), originally added as subsec. (g) by sec. 3(3) of Public Law 95–331 (92 Stat. 414), was redesignated as subsec. (d) by sec. 601(e)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542).

(h)[13] In recognition of the fact that there are over 400,000,000 disabled people in the world, 95 percent of whom are among the poorest of the poor, the Peace Corps shall be administered so as to give particular attention to programs, projects, and activities which tend to integrate disabled people into the national economies of developing countries, thus improving their status and assisting the total development effort.

DIRECTOR OF THE PEACE CORPS AND DELEGATION OF FUNCTIONS

Sec. 4.[14] (a) The President may appoint, by and with the advice and consent of the Senate, a Director of the Peace Corps[15] and a Deputy Director of the Peace Corps.[15]

(b)[16] The President may exercise any functions vested in him by this Act through the Director of the Peace Corps. The Director of the Peace Corps may promulgate such rules and regulations as he may deem necessary or appropriate to carry out such functions, and may delegate to any of his subordinates authority to perform any of such functions.

(c)(1) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(2) The President shall prescribe appropriate procedures to assure coordination of Peace Corps activities with other activities of the United States Government in each country, under the leadership of the chief of the United States diplomatic mission.

(3) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the programs authorized by this Act, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(4)[17] The Director of the Peace Corps may prescribe such regulations as may be necessary to assure that no individual performing service for the Peace Corps under any authority contained in this Act shall engage in any activity determined by the Director to be detrimental to the best interest of the United States.

(d) Except with the approval of the Secretary of State, the Peace Corps shall not be assigned to perform services which could more usefully be performed by other available agencies of the United States Government in the country concerned.

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[13] Subsec. (h) was added by sec. 603 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542).

[14] 22 U.S.C. 2503.

[15] The words ", whose compensation shall be fixed by the President at a rate not in excess of $20,000 per annum," and ", whose compensation shall be fixed by the President at a rate not in excess of $19,500 per annum", which appeared at these points, respectively, were repealed by sec. 305(27) of the Government Employees Salary Reform Act of 1964 (Public Law 88–426).

[16] The references in subsec. (b) to the Director of the Peace Corps were substituted in lieu of references to the head of any agency or any officer of the United States Government by sec. 601(d)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1541).

[17] Par. (4) was added by sec. 2 of Public Law 91–352 (84 Stat. 426). The function prescribed in this paragraph was transferred to the President by sec. 2(b) of Reorganization Plan No. 1 of 1971.

PEACE CORPS VOLUNTEERS

Sec. 5.[18] (a) The President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States (referred to in this Act as "volunteers"). The terms and conditions of the enrollment, training, compensation, hours of work, benefits, leave, termination, and all other terms and conditions of the service of volunteers shall be exclusively those set forth in this Act and those consistent therewith which the President may prescribe; and, except as provided in this Act, volunteers shall not be deemed officers or employees or otherwise in the service or employment of, or holding office under, the United States for any purpose. In carrying out this subsection there shall be no discrimination against any person on account of race, sex, creed, or color.[19]

(b) Volunteers shall be provided with such living, travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively. Supplies or equipment provided volunteers to insure their capacity to serve effectively may be transferred to the government or to other entities of the country or area with which they have been serving, when no longer necessary for such purpose, and when such transfers would further the purposes of this Act.[20] Transportation and travel allowances may also be provided in such circumstances as the President may determine, or applicants for enrollment to or from places of training and places of enrollment, and for former volunteers from places of termination to their homes in the United States.

(c)[21] Volunteers shall be entitled to receive a readjustment allowance at a rate not less than $125[22] for each month of satisfactory service as determined by the President.[23] The readjustment allowance of each volunteer shall be payable on his return to the United States: *Provided, however,* That, under such circumstances as the President may determine, the accrued readjustment allowance, or any part thereof, may be paid to the volunteer, members of his family or others, during the period of his service, or prior to his re-

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[18] 22 U.S.C. 2504. Sec. 4 of Public Law 94–130 added "sex" to the bases for nondiscrimination.

[19] This last sentence of sec. 5(a) was amended by sec. 1105(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276), which removed the prohibition that "no political request shall be required to be taken into consideration".

[20] This sentence was added by sec. 2(a) of Public Law 88–200.

[21] Sec. 2(b) of Public Law 88–200 substituted this language, except for the final sentence, for former subsec. (c), which read as follows:

"(c) Volunteers shall be entitled to receive termination payments at a rate not to exceed $75 for each month of satisfactory service as determined by the President. The termination payment of each volunteer shall be payable at the termination of his service, or may be paid during the course of his service to the volunteer, to members of his family or to others, under such circumstances as the President may determine. In the event of the volunteer's death during the period of his service, the amount of any unpaid termination payment shall be paid in accordance with the provisions of section 61f of title 5 of the United States Code.".

The final sentence was added by sec. 2(a) of Public Law 89–134.

[22] The words "not less than $125" were inserted in lieu of the words "not to exceed $125" by sec. 606 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543).

[23] A phrase, which had been added by sec. 2(b) of Public Law 91–352 and had previously appeared at this point, was struck by sec. 4(1) of Public Law 95–331 (92 Stat. 414). It formerly read as follows: "except that, in the cases of volunteers who have one or more minor children at the time of their entering a period of preenrollment training, one parent shall be entitled to receive a readjustment allowance at a rate not to exceed $125 for each month of satisfactory service as determined by the President.".

turn to the United States. In the event of the volunteer's death during the period of his service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582(b) of title 5, United States Code. For purposes of the Internal Revenue Code of 1954 (26 U.S.C.), a volunteer shall be deemed to be paid and to receive each amount of a readjustment allowance to which he is entitled after December 31, 1964, when such amount is transferred from funds made available under this Act to the fund from which such readjustment allowance is payable.

(d)[24] * * * [Repealed—1966]

(e)[25] Volunteers shall receive such health care during their service, applicants for enrollment shall receive such health examinations preparatory to their service, applicants for enrollment who have accepted an invitation to begin a period of training under section 8(a) of this Act shall receive such immunization and dental care preparatory to their service, and former volunteers shall receive such health examinations within six months after termination of their service, as the President may deem necessary or appropriate. Subject to such conditions as the President may prescribe, such health care may be provided in any facility of any agency of the United States Government, and in such cases the appropriation for maintaining and operating such facility shall be reimbursed from appropriations available under this Act. Health care may not be provided under this subsection in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.[26]

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[24] Public Law 89–554 repealed subsec. (d), which related to Federal Employees' Compensation Act coverage and enacted a substantially identical provision at 5 U.S.C. 8142, which reads, amended, as follows:

"(a) For the purpose of this section, 'volunteer' means—

"(1) a volunteer enrolled in the Peace Corps under section 2504 of title 22;

"(2) a volunteer leader enrolled in the Peace Corps under section 2505 of title 22;

"(3) an applicant for enrollment as a volunteer or volunteer leader during a period of training under section 2507(a)(of title 22 before enrollment.

"(b) Subject to the provisions of this section, this subchapter applies to a volunteer, except that entitlement to disability compensation payments does not commence until the day after the date of termination of his services as a volunteer.

"(c) For the purposes of this subchapter—

"(1) a volunteer is deemed receiving monthly pay at the minimum rate for GS–7;

"(2) a volunteer leader referred to by section 2505 of title 22, or a volunteer with one or more minor children as defined in section 2504 of title 22, is deemed receiving monthly pay at the minimum rate for GS–11;

"(3) an injury suffered by a volunteer when he is outside the several States and the District of Columbia is deemed proximately caused by his employment, unless the injury or disease is—

"(A) caused by willful misconduct of the volunteer;

"(B) caused by the volunteer's intention to bring about the injury or death of himself or of another; or

"(C) proximately caused by the intoxication of the injured volunteer; and

"(4) the period of service of an individual as a volunteer includes—

"(A) any period of training, under section 2507(a) of title 22 before enrollment as a volunteer; and

"(B) the period between enrollment as a volunteer and the termination of service as a volunteer by the President or by death or resignation.".

[25] Sec. 2(b) of Public Law 89–134 substantially amended this subsection which previously read as follows:

"(e) Volunteers shall receive such health care during their service and such health examinations and immunization preparatory to their service, as the President may deem necessary or appropriate. Subject to such conditions as the President may prescribe, such health care, examinations, and immunizations may be provided for volunteers in any facility of any agency of the United States Government, and in such cases the appropriation for maintaining and operating such facility shall be reimbursed from appropriations available under this Act.".

[26] Sec. 9(j) of the Assisted Suicide Funding Restriction Act of 1997 (Public Law 105–12; 111 Stat. 27) added the last sentence to subsec. (e).

(f)[27] (1) Any period of satisfactory service of a volunteer under this Act shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(A) for the purposes of section 816(a) of the Foreign Service Act of 1980[28] and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(B) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1980, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(2) For the purposes of paragraph (1)(A) of this subsection, volunteers and volunteer leaders shall be deemed to be receiving compensation during their service at the respective rates of readjustment allowances[29] payable under sections 5(c) and (6)(1) of this Act.

(g) The President may detail or assign volunteers or otherwise make them available to any entity referred to in paragraph (1) of section 10(a) on such terms and conditions as he may determine: *Provided*, That not to exceed two hundred volunteers may be assigned to carry out secretarial or clerical duties on the staffs of the Peace Corps representatives abroad:[30] *Provided, however*, That any volunteer so detailed or assigned shall continue to be entitled to the allowances, benefits and privileges of volunteers authorized under or pursuant to this Act.

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[27] Public Law 89–554 repealed subsec. (f) insofar as it applied to the Civil Service Retirement Act, as amended, and enacted a provision, 5 U.S.C. 8332(b), which provides the same benefit. 5 U.S.C. 8332(b), in pertinent part reads as follows:

"(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Except as provided in paragraph (13) of this subsection, credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

"(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter. * * * For the purpose of paragraph (5) of this subsection—

"(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and

"(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.".

[28] This reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2202(a) of Public Law 96–465 (94 Stat. 2157).

[29] Sec. 2(c) of Public Law 88–200 substituted the words "readjustment allowances" for the words "termination payments".

[30] The first proviso was added by sec. 2(d) of Public Law 88–200. Sec. 2(e) of Public Law 89–134 substituted "two" for "one" and struck out "in the aggregate" which had followed "volunteers" in this proviso as originally enacted.

(h)[31] Volunteers shall be deemed employees of the United States Government for the purposes of the Federal Tort Claims Act[32] and any other Federal tort liability statute,[33] the Federal Voting Assistance Act of 1955 (5 U.S.C. 2171 et seq.),[34] the Act of June 4, 1954, chapter 264, section 4 (5 U.S.C. 73b–75), the Act of December 23, 1944, chapter 716, section 1, as amended (31 U.S.C. 492a),[35] section 5584 of title 5, United States Code (and readjustment allowances paid under this Act shall be considered as pay for purposes of such section,[36] and section 1 of the Act of June 4, 1920 (41 Stat. 750), as amended (22 U.S.C. 214).[37]

(i) The service of a volunteer may be terminated at any time at the pleasure of the President.

(j) Upon enrollment in the Peace Corps, every volunteer shall take the oath prescribed for persons appointed to any office of honor or profit by section 1757 of the Revised Statutes of the United States, as amended (5 U.S.C. 16)[38] and shall swear (or affirm) that he does not advocate the overthrow of our constitutional form of government in the United States, and that he is not a member of an organization that advocates the overthrow of our constitutional form of government in the United States, knowing that such organization so advocates.

(k)[39] In order to assure that the skills and experience which former volunteers have derived from their training and their service abroad are best utilized in the national interest, the President may, in cooperation with agencies of the United States, private employers, educational institutions and other entities of the United States, undertake programs under which volunteers would be counseled with respect to opportunities for further education and employment.

(l)[40] Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses in-

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[31] Public Law 89–554 repealed subsec. (h) insofar as it applied to the Act of June 4, 1954, ch. 264, sec. 4, which related to the payment or reimbursement of general average contribution from appropriation chargeable to certain types of transportation. Public Law 89–554 also enacted a provision which provided the same benefit (5 U.S.C. 5732) which read as follows: "Under such regulations as the President may prescribe, appropriations chargeable for the transportation of baggage and household goods and personal effects of employees of the United States, volunteers as defined by section 8142(a) of this title, and members of the uniformed services are available for the payment or reimbursement of general average contributions required. Appropriations are not available for the payment or reimbursement of general average contributions—

"(1) required in connection with and applicable to quantities of baggage and household goods and personal effects in excess of quantities authorized by statute or regulation to be transported;

"(2) when the individual concerned is allowed under statute of regulation a commutation instead of actual transportation expenses; or

"(3) when the individual concerned selected the means of shipment.".

[32] 28 U.S.C. 2671–2680 and notes.

[33] Sec. 2(e) of Public Law 88–200 deleted the words "and for the purposes of" at this point and substituted "the Federal Voting Assistance Act of 1955 (5 U.S.C. 2171 et seq.), the Act of June 4, 1954, chapter 264, section 4 (5 U.S.C. 73b–5); and".

[34] Recodified as 50 U.S.C. 1451 et seq.

[35] The reference to the Act of Dec. 23, 1944, was added by sec. 2(d) of Public Law 89–134.

[36] The reference to sec. 5584 of title 5, United States Code, was added by sec. 2 of Public Law 91–99.

[37] The final two sentences of subsec. (h), as added by sec. 4(2) of Public Law 95–331 (92 Stat. 414) and amended by sec. 2202(a)(2) of Public Law 96–465 (94 Stat. 2157), were deleted by sec. 604(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543). These sentences concerned malpractice protection for Peace Corps volunteers and can now be found at sec. 10(j) of this Act.

[38] Recodified as 5 U.S.C. 3331.

[39] Added by sec. 2(f) of Public Law 88–200 (77 Stat. 360).

[40] Added by sec. 2(a) of Public Law 89–572 (80 Stat. 765).

cident to the defense of volunteers may be paid in foreign judicial or administrative proceedings to which volunteers have been made parties.

(m)[41] The minor children of a volunteer living with the volunteer may receive—

(1) such living, travel, education, and leave allowances, such housing, transportation, subsistence, and essential special items of clothing as the President may determine;

(2) such health care, including health care following the volunteer's service for illness or injury incurred during such service, and health and accident insurance, as the President may determine and upon such terms as he may determine, including health care in any facility referred to in subsection (e) of this section, subject to such conditions as the President may prescribe and subject to reimbursement of appropriations as provided in such subsection (e);

(3) such orientation, language, and other training necessary to accomplish the purposes of this Act as the President may determine; and

(4) the benefits of subsection (1) of this section on the same basis as volunteers.

(n)[41] The costs of packing and unpacking, transportation to and from a place of storage, and storing the furniture and household and personal effects of a volunteer who has one or more minor children at the time of his entering a period of pre-enrollment training may be paid from the date of his departure from his place of residence to enter training until no later than three months after termination of his service.

PEACE CORPS VOLUNTEER LEADERS

Sec. 6.[42] The President may enroll in the Peace Corps qualified citizens or nationals of the United States whose services are required for supervisory or other special duties or responsibilities in connection with programs under this Act (referred to in this Act as "volunteer leaders"). The ratio of the total number of volunteer leaders to the total number of volunteers in service at any one time shall not exceed one to twenty-five. Except as otherwise provided in this Act, all of the provisions of this Act applicable to volunteers shall be applicable to volunteer leaders, and the term "volunteers" shall include "volunteer leaders": *Provided, however,* That—

(1) volunteer leaders shall be entitled to receive a readjustment allowance at a rate not less than $125[43] for each month of satisfactory service as determined by the President;[44]

(2) spouses and minor children of volunteer leaders may receive such living, travel, and leave allowances, and such housing, transportation, subsistence, and essential special items of clothing, as the President may determine, but authority con-

[41] Added by sec. 3(b) of Public Law 91–352 (84 Stat. 464).

[42] 22 U.S.C. 2505.

[43] Sec. 3 of Public Law 88–200 substituted the words "a readjustment allowance" for the words "termination payments".

Public Law 97–387 (96 Stat. 1947) substituted the words "not less than" in lieu of the words "not to exceed". This amendment became effective as of Dec. 29, 1981.

[44] Sec. 3 of Public Law 94–281 (90 Stat. 458) provided that the fiscal year 1977 appropriation to carry out the purposes of the Peace Corps Act, $10,100,000 shall be available only for payment of the readjustment allowances authorized by secs. 5(c) and 6(1).

tained in this paragraph shall be exercised only under exceptional circumstances;

(3) spouses and minor children of volunteer leaders accompanying them may receive such health care as the President may determine and upon such terms as he may determine, including health care in any facility referred to in section 5(e) of this Act, subject to such conditions as the President may prescribe in section 5(e);[45] and

(4) spouses and minor children of volunteer leaders accompanying them may receive such orientation, language, and other training necessary to accomplish the purposes of this Act as the President may determine.

PEACE CORPS EMPLOYEES

Sec. 7.[46] (a)(1) For the purpose of performing functions under this Act outside the United States, the President may employ or assign persons, or authorize the employment or assignment of officers or employees of agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980,[47] together with allowances and benefits thereunder; and persons so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of the employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act[48] for persons appointed to the Foreign Service Reserve.

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[45] Public Law 89–134 provided health care for children born during the Volunteer's service. Public Law 91–352 struck out this provision.

[46] 22 U.S.C. 2506. Sec. 4(a) of Public Law 89–134 struck out the former subsecs. (a) and (b) of this section which read as follows:

"(a) The President may employ such persons, not to exceed 275 persons permanently employed in the United States at any one time in fiscal year 1962, as the President deems necessary to carry out the provisions and purposes of this Act. Except as otherwise provided in this Act, such persons (hereafter sometimes referred to as "employees") shall be employed in accordance with and shall be subject to the laws applicable to personnel employed by the United States Government.

"(b) Of the persons employed in the United States in activities authorized by this Act, not to exceed thirty may be compensated without regard to the provisions of the Classification Act of 1949, as amended, of whom not to exceed twenty may be compensated at rates higher than those provided for grade fifteen of the general schedule established by the Classification Act of 1949, as amended, but not in excess of the highest rate of grade 18 of such general schedule. Such positions shall be in addition to those authorized by section 4(a) of this Act to be filled by Presidential appointment, and in addition to the number authorized by section 505 of the Classification Act of 1949, as amended.".

Under the terms of sec. 5 of Public Law 89–134, the independent implementing provisions of that act, persons holding career or career-conditional appointments under the repealed authorities immediately prior to the effective date of sec. 4 of Public Law 89–134 (Oct. 10, 1965) may continue employment under such authority for 3 years. Those whose career or career-conditional appointments were at grade 8 or below of the General Schedule could receive appointment for the duration of operations under the Peace Corps Act.

Sec. 4(b) (1) and (2) of Public Law 89–134 reorganized this subsection by changing its designation from "(c)" to "(a)(1)", and striking "—(1)" after the words "the President may".

[47] The words to this point beginning with "which are not authorized" were substituted by sec. 2202(b)(1)(A) of Public Law 96–465 (94 Stat. 2157) in lieu of the following: "who shall receive compensation at any of the rates provided for persons appointed to the Foreign Service Reserve and Staff under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)".

[48] The reference to sec. 310 was substituted in lieu of a reference to sec. 528 by sec. 2202(b)(1)(B) of Public Law 96–465 (94 Stat. 2157).

(2)[49] The President may utilize such authority contained in the Foreign Service Act of 1980 relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this Act, except that—

(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than seven and one-half years, subject to paragraph (5) and except as provided in paragraph (6)[50] and

(B) no individual whose Foreign Service appointment or assignment under this paragraph has been terminated shall be reappointed or reassigned under this paragraph before the expiration of a period of time equal to the preceding tour of duty of that individual.

Subparagraphs (A) and (B) do not apply with respect to foreign national employees.[51] Such provisions of the Foreign Service Act of 1980 (other than the provision of section 309)[52] as the President deems appropriate shall apply to individuals appointed or assigned under this paragraph, including in all cases, the provisions of section 310 of that Act, except that (i) the President may by regulation make exceptions to the application of section 310 in cases in which the period of the appointment or assignment exceeds thirty months, (ii) members of the Foreign Service appointed or assigned pursuant to this paragraph shall receive within-class salary increases, in accordance with such regulations as the President may prescribe, and (iii) under such regulations as the President may prescribe, individuals who are to perform duties of a more routine nature than are generally performed by members of the Foreign Service assigned to class 9 in the Foreign Service Schedule may be appointed to an unenumerated class ranking below class 9 in the Foreign Service Schedule and be paid basic compensation at rates lower than those for class 9, except that such rates may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(3)[53] The President may specify what additional allowance authorized by section 5941 of title 5, United States Code, and which of the allowances and differentials authorized by sections 5923 through 5925 of such title 5 may be granted to any person employed, appointed, or assigned under this subsection and may de-

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[49] Par. (2), as amended by Public Law 89–134, was amended and restated by sec. 2202(b)(1) of Public Law 96–465 (94 Stat. 2157).

[50] The words to this point beginning with ", subject to paragraph" were substituted in lieu of the following: "unless the Director of the Peace Corps, under special circumstances, personally approved an extension of not more than one year on an individual basis" by sec. 1103(a)(1)(A) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272). Such sec. 1103(a)(1)(A) also increased the period of time of appointments from 5 years to 7.5 years. See sec. 1103(b) of Public Law 99–83 concerning a report from the Peace Corps Director on the criteria for making appointments for periods of more than 5 years.

[51] This sentence was added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 (included in sec. 101 of the Continuing Appropriations Act, 1985; Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 703 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 703 of H.R. 5119.

[52] This parenthetical phrase was added by sec. 1103(a)(1)(B) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272.)

[53] As amended and restated by sec. 5 of Public Law 91–352 (84 Stat. 465). Previously amended by sec. 4(b)(4) of Public Law 89–134 (79 Stat. 550).

termine the rates thereof not to exceed the rates otherwise granted to employees under the sections of title 5, United States Code, referred to in this paragraph.

(4)[54] An individual who has received an appointment or assignment in the Foreign Service under this subsection may, not later than September 30, 1982, or three years after separation from such appointment or assignment, whichever is later, be appointed to a position in any United States department, agency, or establishment—

(A) in the competitive service under title 5, United States Code, without competitive examination and in accordance with such regulations and conditions consistent with this subsection as may be prescribed by the Director of the Office of Personnel Management, or

(B) in an established merit system in the excepted service, if such individual[55] (i) served satisfactorily under the authority of this subsection, as certified by the President, for not less than thirty-six months on a continuous basis without a break in service of more than three days,[56] and (ii) is qualified for the position in question.

(5)[57] Except as provided in paragraph (6), the Director of the Peace Corps may make appointments or assignments of United States citizens under paragraph (2) for periods of more than five years only in the case of individuals whose performance as employees of the Peace Corps has been exceptional and only in order to achieve one or more of the following purposes:

(A) To permit individuals who have served at least two and one-half years of such an appointment or assignment abroad to serve in the United States thereafter.

(B) To permit individuals who have served at least two and one-half years of such an appointment or assignment in the United States to serve abroad thereafter.

(C) To permit individuals who have served at least two and one-half years of such an appointment or assignment in a recruitment, selection, or training activity to be reassigned to an activity other than the one in which they have most recently so served.

(D) To promote the continuity of functions in administering the Peace Corps.

At no time may the number of appointments or assignments of United States citizens in effect under paragraph (2) for periods in excess of five years exceed fifteen percent of the total of all appointments and assignments of United States citizens then in effect under paragraph (2).

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[54] Paragraph (4) was added by sec. 302 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 371). The text of par. (4) up to the words "or three years" were inserted by sec. 2202(b)(2) of Public Law 96–465 (94 Stat. 2158). Former text of par. (4) had contained temporary language pending the enactment of Foreign Service personnel reform legislation which was included in Public Law 96–465.

[55] The word "individual" was substituted in lieu of "person" by sec. 2202(b)(2)(B) of Public Law 96–465 (94 Stat. 2158).

[56] The words "continuous basis without a break in service of more than three days," were substituted in lieu of the words "substantially continuous basis" by sec. 2202(b)(2)(C) of Public Law 96–465 (94 Stat. 2158).

[57] Sec. 1103(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272) added pars. (5) and (6).

(6)[57] Notwithstanding the limitation set forth in paragraph (2)(A) on the length of an appointment or assignment under paragraph (2) and notwithstanding the limitations set forth in paragraph (5) on the circumstances under such an appointment or assignment may exceed five years, the Director of the Peace Corps, under special circumstances, may personally approve an extension of an appointment or assignment under paragraph (2) for not more than one year on an individual basis.

(b)[58] * * * [Repealed—1981]

(c)[59] In each country or area in which volunteers serve abroad, the President may appoint an employee or a volunteer as a Peace Corps representative to have direction of other employees of the Peace Corps abroad and to oversee the activities carried on under this Act in such country or area. Unless a representative is a volunteer, the compensation, allowances and benefits, and other terms and conditions of service of each such representative, shall be the same as those of a person appointed or assigned pursuant to paragraph (1) or (2) of subsection (a) of this section, except that any such representative may, notwithstanding any provision of law, be removed by the President in his discretion.

VOLUNTEER TRAINING

Sec. 8.[60] (a) The President shall make provision for such training as he deems appropriate for each applicant for enrollment as a volunteer and each enrolled volunteer. All of the provisions of this Act applicable respectively to volunteers and volunteer leaders shall be applicable to applicants for enrollment as such during any period of training occurring prior to enrollment, and the respective terms "volunteers" and "volunteer leaders" shall include such applicants during any such period of training.

(b) The President may also make provision, on the basis of advances of funds or reimbursement to the United States, for training for citizens of the United States, other than those referred to in subsection (a) of this section, who have been selected for service abroad in programs not carried out under authority of this Act which are similar to those authorized by this Act. The provisions of section 9 of this Act shall apply, on a similar advance of funds or a reimbursement basis, with respect to persons while within the United States for training under authority of this subsection. Advances or reimbursements received under this subsection may be credited to the current applicable appropriation, fund, or account and shall be available for the purposes for which such appropriation, fund, or account is authorized to be used.

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[58] Subsec. (b), as amended by Public Law 89–134, was repealed by sec. 2205(9) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160). Subsec. (b) had authorized the President to prescribe by regulation standards for maintaining adequate performance levels for persons performing functions under this Act outside of the United States.

[59] Sec. 4(d) of Public Law 89–134 amended this subsection by substituting "(c)" for "(e)" and "(a)" for "(c)".

[60] 22 U.S.C. 2507. Sec. 904 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) repealed subsec. (c) of sec. 8. It previously read as follows:

"(c) Training hereinabove provided for, shall include instruction in the philosophy, strategy, tactics, and menace of communism.".

PARTICIPATION OF FOREIGN NATIONALS

Sec. 9.[61] In order to provide for assistance by foreign nationals in the training of volunteers, and to permit effective implementation of Peace Corps projects with due regard for the desirability of cost-sharing arrangements, where appropriate, the President may make provision for transportation, housing, subsistence, or per diem in lieu thereof, and health care or health and accident insurance for foreign nationals engaged in activities authorized by this Act while they are away from their homes, without regard to the provisions of any other law: *Provided, however,* That per diem in lieu of subsistence furnished to such persons shall not be at rates higher than those prescribed by the Secretary of State pursuant to section 12 of Public Law 84–855[62] (70 Stat. 890). Such persons, and persons coming to the United States under contract pursuant to section 10(a)(5), may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General. A person admitted under this section who fails to maintain the status under which he was admitted or who fails to depart from the United States at the expiration of the time for which he was admitted, or who engages in activities of a political nature detrimental to the interests of the United States, or in activities not consistent with the security of the United States, shall, upon the warrant of the Attorney General, be taken into custody and promptly removed pursuant to chapter 4 of title II of the Immigration and Nationality Act[62] proceedings under this section shall be summary and the findings of the Attorney General as to matters of fact shall be conclusive.

GENERAL POWERS AND AUTHORITIES

Sec. 10.[63] (a) In the furtherance of the purposes of this Act, the President may—

(1) enter into, perform, and modify contracts and agreements and otherwise cooperate with any agency of the United States Government or of any State or any subdivision thereof, other governments and departments and agencies thereof, and educational institutions, voluntary agencies, farm organizations, labor unions, and other organizations, individuals and firms;

(2) assign volunteers in special cases to temporary duty with international organizations and agencies when the Secretary of State determines that such assignment would serve the purposes of this Act;[64]

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[61] 22 U.S.C. 2508.

[62] Sec. 308(e)(18) of Public Law 104–208 (110 Stat. 3009) struck out "deported pursuant to sections 241, 242, and 243 of the Immigration and Nationality Act. Deportation" and inserted in lieu thereof "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act".

[63] 22 U.S.C. 2509.

[64] A proviso clause, which had limited the number of volunteers or volunteer leaders assigned to international organizations to 125, was struck by sec. 5(a)(1) of Public Law 95–331 (92 Stat. 414).

(3)[65] assign volunteers to duty or otherwise make them available to any entity referred to in paragraph (1), in order to assist such organizations and agencies in providing development or other relief assistance to displaced persons and refugees in any country, if the government of the country agrees to such assignment;

(4)[65] accept in the name of the Peace Corps and employ or transfer in furtherance of the purposes of this Act (A) voluntary services notwithstanding the provisions of 31 U.S.C. 665(b), and (B) any money or property (real, personal or mixed, tangible or intangible) received by gift, devise, bequest, or otherwise;[66] and

(5)[65] contract with individuals for personal services abroad, and with aliens (abroad or within the United States) for personal services within the United States: *Provided,* That no such person shall be deemed an officer or employee or otherwise in the service or employment of the United States Government for any purpose.

(b) Notwithstanding any other provision of law, whenever the President determines that it will further the purposes of this Act, the President, under such regulations as he may prescribe, may settle and pay, in an amount not exceeding $20,000,[67] any claim against the United States, for loss of or damage to real or personal property (including loss of occupancy or use thereof) belonging to, or for personal injury or death of, any person not a citizen or resident of the United States, where such claim arises abroad out of the act or omission of any Peace Corps employee or out of the act or omission of any volunteer, but only if such claim is presented in writing within one year after it accrues. Any amount paid in settlement of any claim under this subsection shall be accepted by the claimant in full satisfaction thereof and shall bar any further action or proceeding thereon.

(c) Subject to any future action of the Congress, a contract or agreement which entails commitments for the expenditure of funds available for the purposes of this Act, including commitments for the purpose of paying or providing for allowances and other benefits of volunteers authorized by sections 5 and 6 of this Act, may extend at any time for not more than five years.[68]

(d) Whenever the President determines it to be in furtherance of the purposes of this Act, functions authorized by this Act may be performed without regard to such provisions of law (other than section 3709 of the Revised Statutes of the United States, as amended, section 302 of the Federal Property and Administrative Services

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[65] Sec. 5(c) of Public Law 95–331 (92 Stat. 415) added pars. (3) and redesignated par. (3) and (4) as (4) and (5), respectively.

[66] Sec. 6 of Public Law 89–572 added the words "or transfer" and struck out the following language which had followed the word "otherwise": ", and transfer such money or property to the government or other entities of the country or area with which the Volunteers are serving, when such transfer would further the general purposes of the Act". Except for the words "money or", the above language was added by sec. 5 of Public Law 88–200. Sec. 6 of Public Law 89–134 added the words "money or".

[67] This figure was increased from $10,000 to $20,000 by sec. 5(a)(2) of Public Law 95–331 (92 Stat. 414). Sec. 5(b) of such Act stated that this amendment would apply to claims made after the date of enactment of Public Law 95–331 (Aug. 2, 1978).

[68] Sec. 602(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 491), struck out "thirty-six months" and inserted in lieu thereof "five years".

Act of 1949, and the Renegotiation Act of 1951, as amended)[69] regulating the making, performance, amendment, or modification of contracts, and the expenditure of Government funds as the President may specify.

(e) The President may allocate or transfer to any agency of the United States Government any funds available for carrying out the purposes of this Act including any advance received by the United States from any country or international organization under authority of this Act, but not to exceed 20 per centum in the aggregate of such funds may be allocated or transferred to agencies other than the Peace Corps. Such funds shall be available for obligation and expenditure for the purposes of this Act in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(f) Any officer of the United States Government carrying out functions under this Act may utilize the services and facilities of, or procure commodities from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(g) In the case of any commodity, service, or facility procured from any agency of the United States Government under this Act, reimbursement or payment shall be made to such agency from funds available under this Act. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be covered into the Treasury as miscellaneous receipts.

(h)[70] The President may provide hospitalization and medical treatment to Foreign Service local employees who are within the United States for training related to their employment under this Act, for illnesses, injuries, or conditions other than those arising out of and in the course of employment, which, in the judgment of the President, began during such employee's travel related to such training or so near to the beginning of such travel that the onset of the illness, injury, or condition could not have been known, and for which immediate medical treatment or hospitalization is reasonably required.

(i)[71] The Director of the Peace Corps shall have the same authority as is available to the Secretary of State under section 26(a) of

[69] 50 U.S.C. app. 1211 note. Sec. 2 of Public Law 93–49 added within the parentheses, the reference to sec. 3709 and sec. 302.

[70] Subsec. (h) was added by sec. 5(a)(3) of Public Law 95–331 (92 Stat. 414).

[71] Subsecs. (i) and (j) were added by sec. 604(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543). Sec. 604(c) of Public Law 97–113

the State Department Basic Authorities Act of 1956. For purposes of this subsection, the reference in such section 26(a) to a principal officer of the Foreign Service shall be deemed to be a reference to a Peace Corps representative and the reference in such section to a member of the Foreign Service shall be deemed to be a reference to a person employed, appointed, or assigned under this Act.

(j)[71] The provisions of section 30 of the State Department Basic Authorities Act of 1956 shall apply to volunteers and persons employed, appointed, or assigned under this Act, and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section.[72] For purposes of this subsection, references to the Secretary in subsection (b) of such section shall be deemed to be references to the Director of the Peace Corps, references to the Secretary in subsection (f) of such section shall be deemed to be references to the President, and the reference in subsection (g) of such section to a principal representative of the United States shall be deemed to be a reference to a Peace Corps representative.

REPORTS

Sec. 11.[73] The President shall transmit to the Congress, at least once in each fiscal year, a report on operations under this Act. Each report shall contain information describing efforts undertaken to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including—

(1) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organizations; and

(2) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organizations.[74]

The President shall also include in the report a description of any plans to carry out the policy set forth in section 2(b) of this Act.[75]

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further stated that "To the extent that the authorities provided by the amendments made by subsection (a) are authorities which are not applicable with respect to the Peace Corps immediately before the enactment of this Act and which require the expenditure of funds, those authorities may not be exercised using any funds appropriated after February 15, 1981, and before the date of enactment of this Act.". (enacted Dec. 29, 1981). See text of sec. 26(a) and sec. 30 of the State Department Basic Authorities Act of 1956 mentioned in subsecs. (i) and (j).

[72] Sec. 602(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 491), inserted "and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section".

[73] 22 U.S.C. 2510.

[74] This sentence was added by sec. 6 of Public Law 95–331 (92 Stat. 415).

[75] This sentence was added by sec. 1102(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272).

PEACE CORPS NATIONAL ADVISORY COUNCIL

Sec. 12.[76] (a) ESTABLISHMENT.—A Peace Corps National Advisory Council (hereinafter in this section referred to as the "Council") shall be established in accordance with the provisions of this section.

(b) FUNCTIONS.—(1) The Council shall advise and consult with the President and the Director of the Peace Corps with regard to policies and programs designed to further the purposes of this Act and shall, as the Council considers appropriate, periodically report to the Congress with regard to the Peace Corps.

(2) Members of the Council shall (subject to subsection (d)(1)) conduct on-site inspections, and make examinations, of the activities of the Peace Corps in the United States and in other countries in order to—

(A) evaluate the accomplishments of the Peace Corps;

(B) assess the potential capabilities and the future role of the Peace Corps;

(C) make recommendations to the President, the Director of the Peace Corps, and, as the Council considers appropriate, the Congress, for the purpose of guiding the future direction of the Peace Corps and of helping to ensure that the purposes and programs of the Peace Corps are carried out in ways that are economical, efficient, responsive to changing needs in developing countries and to changing relationships among people, and in accordance with law; and

(D) make such other evaluations, assessments, and recommendations as the Council considers appropriate.

(3) The Council may provide for public participation in its activities.

(c) MEMBERSHIP.—(1) Persons appointed as members of the Council shall be broadly representative of the general public, including educational institutions, private volunteer agencies, private industry, farm organizations, labor unions, different regions of the United States, different educational, economic, racial, and national backgrounds and age groupings, and both sexes.

(2)(A) The Council shall consist of fifteen voting members who shall be appointed by the President, by and with the advice and consent of the Senate. At least seven of such members shall be former Peace Corps volunteers, and not more than eight of such members shall be members of the same political party.

(B) The first appointments of members of the Council under this paragraph shall be made not more than sixty days after the date of the enactment of this section and, solely for purposes of determining the expiration of their terms, shall be deemed to take effect on the sixtieth day after such date of enactment.

(C) No member appointed under this paragraph may be an officer or employee of the United States Government.

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[76] 22 U.S.C. 2511. Sec. 12 was added by sec. 1104 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 273). Sec. 12 was previously repealed by Public Law 92–352 (86 Stat. 495). Subsec. (b) of sec. 1104 terminated the functions of any advisory body carrying out functions similar to those assigned to the Peace Corps National Advisory Council. In effect, it nullified Executive Order 12468 (49 F.R. 11139) which had established a Presidential Advisory Council on the Peace Corps.

(D) Of the members initially appointed under this paragraph, eight shall be appointed to 1-year terms and seven shall be appointed to 2-year terms. Thereafter, all appointed members shall be appointed to 2-year terms.

(E) A member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(F) No member of the Council may serve for more than two consecutive 2-year terms.

(G) Members of the Council shall serve at the pleasure of the President.

(H) An appointed member of the Council may be removed by a vote of nine members for malfeasance in office, for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(I) Within thirty days after any vacancy occurs in the office of an appointed member of the Council, the President shall nominate an individual to fill the vacancy.

(3) In addition to the voting members of the Council, the Secretary of State and the Administrator of the Agency for International Development, or their designees, and the Director and Deputy Director of the Peace Corps, shall be non-voting members, ex officio, of the Council.

(d) COMPENSATION.—(1) Except as provided in paragraph (2), a member of the Council who is not an officer or employee of the United States Government—

(A) shall be paid compensation out of funds made available for the purposes of this Act at the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a Council member, and

(B) while away from his or her home or regular place of business on necessary travel, as determined by the Director of the Peace Corps, in the actual performance of duties as a Council member, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5, United States Code

(2) A member of the Council may not be paid compensation under paragraph (1)(A) for more than twenty days in any calendar year.

(e) QUORUM.—A majority of the voting members of the Council shall constitute a quorum for the purposes of transacting any business.

(f) FINANCIAL INTERESTS OF MEMBERS.—A member of the Council shall disclose to the Council the existence of any direct or indirect financial interest of that member in any particular matter before the Council and may not vote or otherwise participate as a Council member with respect to that particular matter.

(g) CHAIR AND VICE CHAIR.—At its first meeting and at its first regular meeting in each calendar year thereafter, the Council shall elect a Chair and Vice Chair from among its appointed members

who are citizens of the United States. The Chair and Vice Chair may not both be members of the same political party.

(h) MEETINGS, BYLAWS, AND REGULATIONS.—(1) The Council shall hold a regular meeting during each calendar quarter and shall meet at the call of the President, the Director of the Peace Corps, the Council's Chair, or one-fourth of its members.

(2) The Council shall prescribe such bylaws and regulations as it considers necessary to carry out its functions. Such bylaws and regulations shall include procedures for fixing the time and place of meetings, giving or waiving of notice of meetings, and keeping of minutes of meetings.

(i) REPORTS TO THE PRESIDENT AND THE DIRECTOR.—Not later than January 1, 1988, and not later than January 1 of each second year thereafter, the Council shall submit to the President and the Director of the Peace Corps a report on its views on the programs and activities of the Peace Corps. Each report shall contain a summary of the advice and recommendations provided by the Council to the President and the Director during the period covered by the report and such recommendations (including recommendations for administrative or legislative action) as the Council considers appropriate to make to the Congress. Within ninety days after receiving each such report, the President shall submit to the Congress a copy of the report, together with any comments concerning the report that the President or the Director considers appropriate.

(j) ADMINISTRATIVE ASSISTANCE.—The Director of the Peace Corps shall make available to the Council such personnel, administrative support services, and technical assistance as are necessary to carry out its functions effectively.

EXPERTS AND CONSULTANTS

Sec. 13.[77] (a) Experts and consultants or organizations thereof may, as authorized by Section 3109 of title 5, United States Code, be employed by the President[78] for the performance of functions under this Act, and individuals so employed may be compensated at rates not in excess of the per diem equivalent of the highest rate payable under section 5332 of title 5, United States Code,[79] and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence and other expense at the applicable rate prescribed in the Standardized Government Travel Regulations, as amended from time to time, while so employed: *Provided,* That contracts for such employment may be renewed annually.

(b) Service of an individual as a member of the Council authorized to be established by section 12 of this Act or as an expert or consultant under subsection (a) of this section shall not[80] be con-

[77] 22 U.S.C. 2512.

[78] Sec. 6(a) of Public Law 88–200 substituted "President" for "Peace Corps".

[79] The words "per diem equivalent of the highest rate payable under section 5332 of Title 5" were substituted for "$75 per diem" by Public Law 91–352 (84 Stat. 465).

[80] The words which formerly appeared at this point were struck out by sec. 6(b) of Public Law 88–200. They read as follows: "be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of service, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit

sidered as employment or holding of office or position bringing such individual within the provisions of sections 3323(b) and 8344 of title 5, United States Code, section 824 of the Foreign Service Act of 1980[81] or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 5532 of title 5, United States Code.

DETAIL OF PERSONNEL TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Sec. 14.[82] (a) In furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available any officer or employee of his agency (1) to serve with, or as a member of, the international staff of any international organization, or (2) to any office or position to which no compensation is attached with any foreign government or agency thereof: *Provided,* That such acceptance of such office or position shall in no case involve the taking of an oath of allegiance to another government.

(b) Any such officer or employee, while so detailed or assigned, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds authorized by this Act. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.[83] The authorization of such allowances and other benefits, and the payment thereof out of any appropriations available therefor, shall be considered as meeting all of the requirements of section 5536 of title 5, United States Code.

(c) Details or assignments may be made under this section—

(1) without reimbursement to the United States Government, by the international organization or foreign government;

(2) upon agreement by the international organization or foreign government to reimburse the United States Government for compensation, travel expenses, and allowances, or any part thereof, payable to such officer or employee during the period of assignment or detail in accordance with subsection (b) of this section; and such reimbursement shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, or allowances, or to the appropriation, fund, or account currently available for such purpose; or

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any such individual from receiving compensation in respect of any particular matter, in which such individual was directly involved in the performance of such service; nor shall such service".

These words were struck out to reflect the general repeal of all special exemptions from the conflict-of-interest statutes for government employees which was effected by sec. 2 of Public Law 87–849.

[81] The reference to sec. 824 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 872 of the Foreign Service Act of 1946 by sec. 2202(c) of Public Law 96–465 (94 Stat. 2158).

[82] 22 U.S.C. 2513.

[83] The reference to sec. 905 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 901 of the Foreign Service Act of 1946 by sec. 2202(d) of Public Law 96–465 (94 Stat. 2158).

(3) upon an advance of funds, property or services to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act; and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization.

UTILIZATION OF FUNDS

Sec. 15.[84] (a) Funds made available for the purposes of this Act may be used for compensation, allowances and travel of employees, including members of the Foreign Service[85] whose services are utilized primarily for the purposes of this Act, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of employees) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act.

(b)[86] Funds made available for the purposes of this Act may be used to pay expenses in connection with travel abroad of employees and to the extent otherwise authorized by this Act, of volunteers, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting to and from a place of storage, and the cost of storing automobiles of employees when it is in the public interest or more economical to authorize storage.

(c) Funds available under this Act may be used to pay costs of training employees employed or assigned pursuant to section 7(a)(2)[87] of this Act (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firms; and the provisions of Public Law 84–918 (7 U.S.C. 1881 et seq.) may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institu-

[84] 22 U.S.C. 2514.

[85] The words "members of the Foreign Service" were substituted in lieu of the words "Foreign Service personnel" by sec. 2202(e) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158).

[86] Sec. 201(16) of the Fiscal Year Transition Act (Public Law 94–274) provided that the period July 1, 1976 through Sept. 30, 1976 shall be treated as a fiscal year for the purposes of sec. 15(b).

[87] Sec. 3(a) of Public Law 80–572 substituted "7(a)(2)" for "7(c)(2)".

tions specified in that Act. Any[88] payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however,* That any such payments to an employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

(d) Funds available for the purposes of this Act shall be available for—

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvement of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of this Act, including (notwithstanding the provisions of section 9 of Public Law 60–328 (31 U.S.C. 673)) expenses in connection with meetings of persons whose employment is authorized by section 13(a) of this Act;

(3) rental and hire of aircraft;

(4) purchase and hire of passenger motor vehicles: *Provided,* That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes abroad may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles, and the cost, including exchange allowance, of each such replacement shall not exceed the applicable cost limitation described in section 636(a)(5) of the Foreign Assistance Act of 1961[89] in the case of an automobile for any Peace Corps country representative appointed under section 7(c):[90] *Provided further,* That the provisions of section 1343 of Title 31, United States Code, shall not apply to the purchase of vehicles for the transportation, maintenance, or direct support of volunteers overseas:[89] *Provided further,* That passenger motor vehicles may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(5) entertainment (not to exceed $5,000 in any fiscal year) except as may otherwise be provided in any appropriation or other Act;[91]

(6) exchange of funds without regard to section 3561 of the Revised Statutes (31 U.S.C. 543) and loss by exchange;

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[88] Sec. 7 of Public Law 89–134 substituted the word "Any" for the words "Such training shall not be considered employment or holding of office under section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), and any".

[89] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of Public Law 100–202; 101 Stat. 1329) deleted "$2,500", and added the words beginning with "the applicable cost" and ending in "Act of 1961" and the proviso regarding section 1343 of Title 31 U.S.C.

[90] Sec. 3(b) of Public Law 89–572 substituted "7(c)" for "7(e)".

[91] Sec. 211(a) of the Fiscal Year Transition Act (Public Law 94–274) provided that for the period July 1, 1976 through Sept. 30, 1976 the limitation on expenditures in secs. 15(d)(5) and 15(d)(7) shall be $1,500.

(7) expenditures (not to exceed $20,000[92] in any fiscal year except as may be otherwise provided in appropriation or other Act)[91] not otherwise authorized by law to meet unforeseen emergencies or contingencies arising in the Peace Corps: *Provided*, That a certificate of the amount only of each such expenditure and that such expenditure was necessary to meet an unforeseen emergency or contingency, made by the Director of the Peace Corps or his designee, shall be deemed a sufficient voucher for the amount therein specified;

(8) insurance of official motor vehicles acquired for use abroad;

(9) rent or lease abroad for not to exceed five years of offices, health facilities, buildings, grounds, and living quarters, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for its use abroad; and costs of fuel, water, and utilities for such properties;

(10) expenses of preparing and transporting to their former homes, or with respect to foreign participants engaged in activities under this Act, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities under this Act;

(11) use in accordance with authorities of the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)[93] not otherwise provided for; and

(12) ice and drinking water for use abroad.

SEC. 16.[94] FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the "Foreign Currency Fluctuations, Peace Corps, Account". The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Not-

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[92] This figure was increased from $5,000 to $20,000 by sec. 601(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3155).

[93] This Act was repealed and replaced by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.).

[94] 22 U.S.C. 2515. Sec. 2(a) of Public Law 102–565 (106 Stat. 4265) added sec. 16. Formerly, a sec. 16 relating to appointments of persons serving under prior law was repealed by sec. 5(a) of Public Law 89–572.

Sec. 2(b) of Public Law 102–565 (106 Stat. 4265) provided that:

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.".

withstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

(e) LIMITATION ON TRANSFERS BACK.-A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs[95] and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.

USE OF FOREIGN CURRENCIES

Sec. 17.[96] Whenever possible, expenditures incurred in carrying out functions under this Act shall be paid for in such currency of the country or area where the expense is incurred as may be available to the United States.

[95] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[96] 22 U.S.C. 2516.

ACTIVITIES PROMOTING AMERICANS' UNDERSTANDING OF OTHER PEOPLES

Sec. 18.[97] In order to further the goal of the Peace Corps, as set forth in section 2 of this Act, relating to the promotion of a better understanding of other peoples on the part of the American people, the Director, utilizing the authorities under section 10(a)(1) and other provisions of law, shall, as appropriate, encourage, facilitate, and assist activities carried out by former volunteers in furtherance of such goal and the efforts of agencies, organizations, and other individuals to support or assist in former volunteers' carrying out such activities.

EXCLUSIVE RIGHT TO SEAL AND NAME [98]

Sec. 19.[98] (a) The President may adopt, alter and use an official seal or emblem of the Peace Corps of such design as he shall determine which shall be judicially noticed.

(b)(1) The use of the official seal or emblem and the use of the name "Peace Corps" shall be restricted exclusively to designate programs authorized under this Act.

(2) Whoever, whether an individual, partnership, corporation, or association, uses the seal for which provision is made in this section, of any sign, insignia, or symbol in colorable imitation thereof, or the words "Peace Corps" or any combination of these or other words or characters, in colorable imitation thereof, other than to designate programs authorized under this Act, shall be fined not more than $500 or imprisoned not more than six months, or both. A violation of this subsection may be enjoined at the suit of the Attorney General, United States attorneys, or other persons duly authorized to represent the United States.

MORATORIUM ON STUDENT LOANS

Sec. 20.[99] * * * [Repealed—1966]

AMENDMENT TO CIVIL SERVICE RETIREMENT ACT

Sec. 21.[100] * * * [Repealed—1966]

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[97] Sec. 18 was added by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329). The former sec. 18 was repealed by sec. 605(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543). It had stated that the Mutual Defense Assistance Control Act of 1951 would apply with respect to functions carried out under this Act except in cases where the President determined that such application would be detrimental to U.S. interests.

[98] Sec. 7 of Public Law 88–200 substituted the title "Exclusive Right to Seal and Name" in lieu of the title "Seal"; added subsection designation "(a)" and added subsec. (b).

[99] Sec. 5(a) of Public Law 89–572 repealed former sec. 20 (75 Stat. 623), which related to the moratorium on student loans. Such repeal, by virtue of sec. 5(b) of Public Law 89–572, does not affect the amendment of sec. 205 of the National Defense Education Act of 1958 (20 U.S.C. 425) contained in the former sec. 20.

[100] Sec. 5(a) of Public Law 89–572 repealed former sec. 21 (75 Stat. 623), which related to amendment to the Civil Service Retirement Act. Such repeal, by virtue of section 5(b) of Public Law 89–572 does not affect the amendment of subsec. (j) of sec. 3 of the Civil Service Retirement Act, as amended (5 U.S.C. 8333), contained in the former sec. 21.

SECURITY INVESTIGATIONS

Sec. 22.[101] All persons employed or assigned to duties under this Act shall be investigated to insure that the employment or assignment is consistent with the national interest in accordance with standards and procedures established by the President. If an investigation made pursuant to this section develops any data reflecting that the person who is the subject of the investigation is of questionable loyalty or is a questionable security risk, the investigating agency shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation. The results of that full field investigation shall be furnished to the initial investigating agency, and to the agency by which the subject person is employed, for information and appropriate action. Volunteers shall be deemed employees of the United States Government for the purpose of this section.

UNIVERSAL MILITARY TRAINING AND SERVICE ACT

Sec. 23.[102] Notwithstanding the provisions of any other law or regulation, service in the Peace Corps as a volunteer shall not in any way exempt such volunteer from the performance of any obligations or duties under the provisions of the Universal Military Training and Service Act.

FOREIGN LANGUAGE PROFICIENCY

Sec. 24.[103] No person shall be assigned to duty as a volunteer under this Act in any foreign country or area unless at the time of such assignment he possesses such reasonable proficiency as his assignment requires in speaking the language of the country or area to which he is assigned.

NONPARTISAN APPOINTMENTS

Sec. 25.[104] In carrying out this Act, no political test or political qualification may be used in—

(1) selecting any person for enrollment as a volunteer or for appointment to a position at, or for assignment to (or for employment for assignment to), a duty station located abroad, or

(2) promoting or taking any other action with respect to any volunteer or any person assigned to such a duty station.

DEFINITIONS

Sec. 26.[104, 105] (a) The term "abroad" means any area outside the United States.

(b) The term of "United States" means the several States[106] and the District of Columbia.

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[101] 22 U.S.C. 2519.
[102] 22 U.S.C. 2520.
[103] 22 U.S.C. 2521.
[104] 22 U.S.C. 2521a. Sec. 25 was added by sec. 1105(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276). Sec. 1105(a)(1) of such Act redesignated existing secs. 25, 26, and 27 as secs. 26, 27, and 28, respectively.
[105] 22 U.S.C. 2522.
[106] The words "and territories" which appeared at this point were struck out by sec. 4 of Public Law 89–572.

(c) The term "function" includes any duty, obligation, right, power, authority, responsibility, privilege, discretion, activity and program.

(d) The term "health care" includes all appropriate examinations, preventive, curative, and restorative health and medical care, and supplementary services when necessary.

(e) For the purposes of this or any other Act, the period of any individual's service as a volunteer under this Act shall include—

(i) except for the purposes of section 5(f) of this Act, any period of training under section 8(a) prior to enrollment as a volunteer under this Act; and

(ii) the period between enrollment as a volunteer and the termination of service as such volunteer by the President or by death or resignation.

(f) The term "United States Government agency" includes any department, board, wholly or partly owned corporation, or instrumentality, commission, or establishment of the United States Government.

(g) The word "transportation" in sections 5(b), 5(m), and 6(2) includes transportation of not to exceed three hundred pounds per person of unaccompanied necessary personal and household effects.

CONSTRUCTION

Sec. 27.[104, 107] If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

EFFECTIVE DATE

Sec. 28.[104, 108] This Act shall take effect on the date of its enactment.

TITLE II—AMENDMENT OF INTERNAL REVENUE CODE AND SOCIAL SECURITY ACT

TAXATION OF ALLOWANCES

Sec. 201.[109] * * * [Repealed—1966]

SOCIAL SECURITY COVERAGE

Sec. 202.[109] * * * [Repealed—1966]

TITLE III—ENCOURAGEMENT OF VOLUNTARY SERVICE PROGRAMS [110]

Sec. 301. (a)[111] The Congress declares that it is the policy of the United States and a further purpose of this Act (1) to encourage

[107] 22 U.S.C. 2523.
[108] 22 U.S.C. 2501 note.
[109] Repealed by Public Law 89–572.
[110] 22 U.S.C. 2501a. Title III was added by sec. 8 of Public Law 88–200 (77 Stat. 360).
[111] Sec. 3(1) of Public Law 91–99 substituted this language for former subsec. (a), which read as follows: "(a) The Congress declares that it is the policy of the United States and a further purpose of this Act to encourage countries and areas to establish programs under which their

countries and areas to establish programs under which their citizens and nationals would volunteer to serve in order to help meet the needs of less developed countries or areas for trained manpower; (2) to encourage less developed countries or areas to establish programs under which their citizens and nationals would volunteer to serve in order to meet their needs for trained manpower; and (3) to encourage the development of, and participation in, international voluntary service programs and activities.

(b)(1)[112] Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of subsection (a) shall be limited to—

(A) furnishing technical assistance, materials, tools, supplies, and training appropriate to the support of volunteer programs in such countries or areas; and

(B) conducting demonstration projects in such countries or areas.

None of the funds made available to carry out the purposes of clauses (1) and (2) of subsection (a) may be used to pay the administrative costs of any program or project, other than a demonstration project, or to assist any program or project of a paramilitary or military nature. Funds allocated for activities set forth in this paragraph should be kept to a minimum so that such allocation will not be detrimental to other Peace Corps programs and activities.

(2)[113] Not more than 2 per centum of the amount appropriated to the Peace Corps for a fiscal year may be used in such fiscal year[114, 115] to carry out the provisions of clause (3) of subsection (a) of this section. Such funds may be contributed to educational institutions, private voluntary organizations, international organizations, and foreign governments or agencies thereof, to pay a fair and proportionate share of the costs of encouraging the development of, and participation in, international voluntary programs and activities.

(c) Such activities shall not compromise the national character of the Peace Corps.

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citizens and nationals would volunteer to serve in order to help meet the needs of less developed countries or areas for trained manpower, and to encourage less developed countries or areas to establish programs under which their citizens and nationals would volunteer to serve in order to meet their needs for trained manpower.".

[112] Par. (1) was amended and restated by sec. 7 of Public Law 95–331 (92 Stat. 415). It formerly read as follows:

"(1) Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of subsection (a) of this section shall be limited to the furnishing of knowledge and skills relating to the selection, training, and programing of volunteer manpower. None of the funds available for use in the furtherance of such purposes may be contributed to any international organization or to any foreign government or agency thereof; nor may such funds be used to pay the costs of developing or operating volunteer programs of such organization, government, or agency, or to pay any other costs of such organization, government, or agency.".

[113] Sec. 402 of Public Law 92–352 substituted this language for former subsec. (b)(2).

[114] The 2 per centum appropriation limitation was substituted in lieu of a limitation of $350,000 in any fiscal year by sec. 8 of Public Law 95–331 (92 Stat. 416). Sec. 8 further provided that this amendment would become effective on Oct. 1, 1978.

[115] Sec. 112(b) of the Fiscal Year Transition Act (Public Law 94–274) provided that for the period July 1, 1976 through Sept. 30, 1976, the limitation on expenditures in sec. 301(b)(2) shall be $100,000.

2. Establishment of the Peace Corps as an Independent Agency

Partial text of Public Law 97–113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519 at 1540, approved December 29, 1981

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TITLE VI—PEACE CORPS

ESTABLISHMENT AS AN INDEPENDENT AGENCY

Sec. 601. (a)[1] * * *

(b)[2] There are transferred to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION Agency on the day before the date of the enactment of this Act.

(c)(1)[2] All personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds as are determined by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, the Director of the Peace Corps, and the Director of the ACTION Agency, to be employed, held, used, or assumed primarily in connection with any function relating to the Peace Corps before the date of the enactment of this Act are transferred to the Peace Corps. The transfer of unexpended balances pursuant to the preceding sentence shall be subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c).

(2)(A) The transfer pursuant to this subsection of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any employee to be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after—

(i) the date on which the Director of the Office of Management and Budget submits the report required by subsection (f)(1) of this section, or

(ii) the effective date of the transfer of such employee,

whichever occurs later.

(B) The personnel transferred pursuant to this subsection shall, to the maximum extent feasible, be assigned to such related functions and organizational units in the Peace Corps as such personnel were assigned to immediately before the date of the enactment of this Act.

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[1] Subsec. (a) added a new sec. 2A to the Peace Corps Act establishing the Peace Corps as an independent agency.

[2] 22 U.S.C. 2501–1 note.

(C) Collective-bargaining agreements in effect on the date of the enactment of this Act covering personnel transferred pursuant to this subsection or employed on such date of enactment by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of such agreements or until such agreements are modified in accordance with applicable procedures.

(3) Under such regulations as the President may prescribe, each person who, immediately before the date of the enactment of this Act, does not hold an appointment under section 7(a)(2) of the Peace Corps Act and who is determined under paragraph (1) of this subsection to be employed primarily in connection with any function relating to the Peace Corps shall, effective on the date of the enactment of this Act, and notwithstanding subparagraph (B) of section 7(a)(2) of the Peace Corps Act, be appointed a member of the Foreign Service under section 7(a)(2) of the Peace Corps Act, and be appointed or assigned to an appropriate class of the Foreign Service, except that—

(A) any person who, immediately before such date of enactment, holds a career or career-conditional appointment shall not, without the consent of such person, be so appointed until three years after such date of enactment, during which period any such person not consenting to be so appointed may continue to hold such career or career-conditional appointment; and

(B) each person so appointed who, immediately before such date of enactment, held a career or career-conditional appointment at grade GS–8 or lower of the General Schedule established by section 5332 of title 5, United States Code, shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act.

Each person appointed under this paragraph shall receive basic compensation at the rate of such person's class determined by the President to be appropriate, except that the rate of basic compensation received by such person immediately before the effective date of such person's appointment under this paragraph shall not be reduced as a result of the provisions of this paragraph.

(d)(1)[3] * * *

(2)[4] The Director of the Peace Corps shall continue to exercise all the functions under the Peace Corps Act or any other law or authority which the Director was performing on December 14, 1981.

(e)(1)[5] * * *

(2)[6] The amendment made by paragraph (1) of this subsection shall not alter or affect (A) the validity of any action taken before the date of the enactment of this Act under those provisions of law repealed by that amendment, or (B) the liability of any person for any payment described in section 3(f) of the Peace Corps Act as in effect immediately before the date of the enactment of this Act.

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[3] Subsec. (d)(1) amended sec. 4(b) of the Peace Corps Act.

[4] 22 U.S.C. 2503 note.

[5] Subsec. (e)(1) amended sec. 3 of the Peace Corps Act.

[6] 22 U.S.C. 2502 note. Paragraph (1) of subsec. (e) amended sec. 3 of the Peace Corps Act by repealing existing subsecs. (d), (e), and (f). See footnote 11, page 1101, for discussion of the subject matter of these repealed provisions.

(f)(1) Not later than the thirtieth day after the date of the enactment of this Act, or February 15, 1982, whichever occurs later, the Director of the Office of Management and Budget, after consultation with the Director of the Peace Corps and the Director of the ACTION Agency, shall submit to the appropriate committees of the Congress and to the Comptroller General a report on the steps taken to implement the provisions of this title, including descriptions of the dispositions of administrative matters, including matters relating to personnel, assets, liabilities, contracts, property, records, and unexpended balances or appropriations, authorizations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions or activities relating to the Peace Corps.

(2) Not later than the forty-fifth day after the date of the enactment of this Act, or March 1, 1982, whichever occurs later, the Comptroller General shall submit to the appropriate committees of the Congress a report stating whether, in the judgment of the Comptroller General, determinations made by the Director of the Office of Management and Budget under subsection (c)(1) of this section were equitable.

(g)[2] References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the ACTION Agency or the Director of the ACTION Agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively.

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RESTORATION OF CERTAIN AUTHORITIES FORMERLY CONTAINED IN THE FOREIGN SERVICE ACT

Sec. 604.[7] (a) * * *

(b) * * *

(c)[8] To the extent that the authorities provided by the amendments made by subsection (a) are authorities which are not applicable with respect to the Peace Corps immediately before the enactment of this Act and which require the expenditure of funds, those authorities may not be exercised using any funds appropriated after February 15, 1981, and before the date of enactment of this Act.

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[7] Subsec. (a) amended sec. 10 of the Peace Corps Act by adding new subsecs. (i) and (j).
[8] 22 U.S.C. 2509 note.

3. Peace Corps Reauthorization

a. Peace Corps Authorization—Fiscal Years 1994 and 1995

Partial text of Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

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

* * * * * * *

TITLE VI—PEACE CORPS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $219,745,000 for the fiscal year 1994 and $234,745,000 for the fiscal year 1995 to carry out the Peace Corps Act.

(b) AVAILABILITY OF FUNDS.—Funds made available to the Peace Corps pursuant to the authorization under subsection (a) shall be available for the fiscal year for which appropriated and the subsequent year.

SEC. 602. AMENDMENTS TO THE PEACE CORPS ACT. * * *

b. Peace Corps Authorization—Fiscal Year 1993

Partial text of Public Law 102–565 [S. 3309], 106 Stat. 4265, approved October 28, 1992

AN ACT To amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.

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

SECTION 1.[1] AUTHORIZATIONS OF APPROPRIATIONS. * * *

SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a)[2] ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.— * * *

(b)[3] EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

SEC. 3.[4] EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace

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[1] Sec. 1 amended the Peace Corps Act at sec. 3(b) (22 U.S.C. 2502(b)).
[2] Subsec. (a) added a new sec. 16 to the Peace Corps Act (22 U.S.C. 2515).
[3] 22 U.S.C. 2515 note.
[4] 22 U.S.C. 2504 note.

Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs[5] and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.

(a) IN GENERAL.—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) RECOMMENDATIONS.— The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

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

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs[5] and the Committee on Appropriations of the House of Representatives; and

(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

[5] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.

(a) AVAILABILITY OF FUNDS.—Up to $6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) DEFINITION.—For purposes of this section, the term ''independent states of the former Soviet Union'' means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

c. Peace Corps Authorization for Fiscal Years 1986 and 1987

Partial text of Public Law 99–83 [S. 960], 99 Stat. 190 at 272, approved August 8, 1985

AN ACT TO authorize international development and security assistance programs and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

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

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TITLE XI—PEACE CORPS

SEC. 1101.[1] AUTHORIZATION OF APPROPRIATIONS. * * *

SEC. 1102.[2] NUMBER OF PEACE CORPS VOLUNTEERS. * * *

SEC. 1103. LIMITATION ON LENGTH OF PEACE CORPS EMPLOYMENT

(a) * * *

(b)[3] REPORTS TO CONGRESS.—The Director of the Peace Corps shall, not later than January 1, 1986, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[4] of the House of Representatives a report describing the criteria to be applied by the Director in exercising the authority provided by the amendments made by subsection (a) to make appointments or assignments of individuals for periods of more than five years. Not later than each January 1 thereafter, the Director shall submit to the Committees referred to in the preceding sentence a report on—

(1) the exercise of such authority during the preceding fiscal year for each of the purposes specified in paragraph (5) of section 7(a) of the Peace Corps Act, as added by subsection (a) of this section; and

(2) the exercise during that fiscal year of the authority under paragraph (6) of such section 7(a), as added by subsection (a) of this section.

SEC. 1104. PEACE CORPS NATIONAL ADVISORY COUNCIL.

(a) * * *

(b)[5] TERMINATION OF SIMILAR ADVISORY BODY.—Any advisory body carrying out functions similar to those assigned to the Peace Corps National Advisory Council provided for in subsection (a)

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[1] Sec. 1101 amended sec. 3(b) of the Peace Corps Act (22 U.S.C. 2502) to establish funding levels for fiscal years 1986 and 1987.

[2] Sec. 1102 amended secs. 2 and 11 of the Peace Corps Act (22 U.S.C. 2501 and 2510, respectively).

[3] 22 U.S.C. 2506 note.

[4] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[5] 22 U.S.C. 2511 note.

shall cease to exist sixty days after the date of the enactment of this Act.

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4. Independent Implementing Provisions of Public Law 89–134

Partial text of Public Law 89–134 [S. 2045], 79 Stat. 549, approved August 24, 1965

* * * * * * *

The new Peace Corps personnel system provided for in section 7 of the Peace Corps Act, as amended by section 4 of Public Law 89–134 and section 302 of Public Law 96–53, is to be implemented according to section 5 of Public Law 89–134 which is set forth below.

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Sec. 5.[1] (a) Section 4 of this Act shall not become effective until the first day of the fourth pay period which begins after the date this Act becomes law.

(b) Under such regulations as the President may prescribe, each person employed under authorities repealed by section 4(a) of this Act immediately prior to the effective date of that section shall effective on that date be appointed a Foreign Service Reserve officer or Foreign Service staff officer or employee under the authority of section 7(a)(2) of the Peace Corps Act, as amended, and appointed or assigned to an appropriate class thereof; except that—

(1) no person who holds a career or career-conditional appointment immediately prior to the effective date of section 4(a) of this Act shall, without his consent, be so appointed until three years after such effective date; and

(2) each person so appointed who, immediately prior to the effective date of section 4(a) of this Act, held a career or career-conditional appointment at grade 8 or below of the General Schedule established by the Classification Act of 1949, as amended, shall receive an appointment for the duration of operations under the Peace Corps Act, as amended.

Each person appointed under this subsection shall receive basic compensation at the rate of his class determined by the President to be appropriate, but the rate of basic compensation received by such person immediately prior to the effective date of his appointment under this subsection shall not be reduced by the provisions of this subsection.

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[1] 22 U.S.C. 2506 note.

5. Higher Education Amendments of 1986

Partial text of Public Law 99–498 [S. 1965], 100 Stat. 1268, approved October 17, 1986; amended by Public Law 102–325 [Higher Education Amendments of 1992; S. 1150], 106 Stat. 448, approved July 23, 1992 [1]

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SEC. 465.[2] (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraphs (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

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(E)[3] as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973;

* * * * * * *

[1] Public Law 102–325 amended and restated sec. 464 (20 U.S.C. 1087dd), eliminating the terms and conditions for deferring the repayment of student loans for Peace Corps volunteers.
[2] 20 U.S.C. 1087ee.
[3] 22 U.S.C. 2501 note.

6. National and Community Service Act of 1990

Partial text of Public Law 101–610 [S. 1430], 104 Stat. 3127, approved November 16, 1990; amended by Public Law 102–384 [National and community Service Technical Amendment Act of 1992; S. 3175], 106 Stat. 1455, approved October 5, 1992; and by Public Law 103–82 [National and Community Service Trust Act of 1993; H.R. 2010],, 107 Stat. 785, approved September 21, 1993

AN ACT To enhance national and community service, and for other purposes.

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

SECTION 1.[1] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National and Community Service Act of 1990".

NOTE.—Title I, subtitle E, of the National and Community Service Act of 1990, relating to "Innovative and Demonstration Programs and Projects", including provisions for training and educational benefits demonstration programs to be carried out under the authority of the Director of the Peace Corps and the Director of ACTION (part III; 42 U.S.C. 12611 *et seq.*) was repealed by sec. 104(a) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 840).

Here follow sections of the National and Community Service Act of 1990, as amended, that take into consideration the participation of the Peace Corps, and its returning volunteers, in programs of the Corporation of National and Community Service.

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SUBTITLE C—NATIONAL SERVICE TRUST PROGRAM[2]

PART I—INVESTMENT IN NATIONAL SERVICE

SEC. 121.[3] AUTHORITY TO PROVIDE ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

(a) PROVISION OF ASSISTANCE.—Subject to the availability of appropriations for this purpose, the Corporation for National and

[1] 42 U.S.C. 12401 note.
[2] Added by sec. 101(b) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 788).
[3] 42 U.S.C. 12571.

Community Service[4] may make grants to States, subdivisions of States, Indian tribes, public or private nonprofit organizations, and institutions of higher education for the purpose of assisting the recipients of the grants—

(1) to carry out full- or part-time national service programs, including summer programs, described in section 122(a); and

(2) to make grants in support of other national service programs described in section 122(a) that are carried out by other entities.

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SEC. 122.[5] TYPES OF NATIONAL SERVICE PROGRAMS ELIGIBLE FOR PROGRAM ASSISTANCE.

(a) ELIGIBLE NATIONAL SERVICE PROGRAMS.—The recipient of a grant under section 121(a) and each Federal agency receiving assistance under section 121(b) shall use the assistance, directly or through subgrants to other entities, to carry out full- or part-time national service programs, including summer programs, that address unmet human, educational, environmental, or public safety needs. Subject to subsection (b)(1), these national service programs may include the following types of national service programs:

(1) A community corps program that meets unmet human, educational, environmental, or public safety needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, physical and developmental capabilities, ages, ethnic backgrounds, or genders.

(2) A full-time, year-round youth corps program or full-time summer youth corps program, such as a conservation corps or youth service corps (including youth corps programs under subtitle I, the Public Lands Corps established under the Public Lands Corps Act of 1993, the Urban Youth Corps established under section 106 of the National and Community Service Trust Act of 1993, and other conservation corps or youth service corps that performs service on Federal or other public lands or on Indian lands or Hawaiian home lands), that—

(A) undertakes meaningful service projects with visible public benefits, including natural resource, urban renovation, or human services projects;

(B) includes as participants youths and young adults between the ages of 16 and 25, inclusive, including out-of-school youths and other disadvantaged youths (such as youths with limited basic skills, youths in foster care who are becoming too old for foster care, youths of limited-English proficiency, homeless youths, and youths who are individuals with disabilities) who are between those ages; and

(C) provides those participants who are youths and young adults with—

[4] The Corporation for National and Community Service, established in sec. 191 of this Act, as amended by sec. 202(a) of Public Law 103–82 (107 Stat. 873). For composition, authorities and functions of the Corporation, see 42 U.S.C. 12651, 42 U.S.C. 12651a–h, and notes.

[5] 42 U.S.C. 12572.

(i) crew-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services; and

(ii) the opportunity to develop citizenship values and skills through service to their community and the United States.

(3) A program that provides specialized training to individuals in service-learning and places the individuals after such training in positions, including positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under part I of subtitle B.

(4) A service program that is targeted at specific unmet human, educational, environmental, or public safety needs and that—

(A) recruits individuals with special skills or provides specialized preservice training to enable participants to be placed individually or in teams in positions in which the participants can meet such unmet needs; and

(B) if consistent with the purposes of the program, brings participants together for additional training and other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.

(5) An individualized placement program that includes regular group activities, such as leadership training and special service projects.

(6) A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of—

(A) students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.);

(B) teams composed of such students; or

(C) teams composed of a combination of such students and community residents.

(7) A preprofessional training program in which students enrolled in an institution of higher education—

(A) receive training in specified fields, which may include classes containing service-learning;

(B) perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and

(C) agree to provide service upon graduation to meet unmet human, educational, environmental, or public safety needs related to such training.

(8) A professional corps program that recruits and places qualified participants in positions—

(A) as teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, human, environmental, or public safety needs in

communities with an inadequate number of such professionals;

(B) that may include a salary in excess of the maximum living allowance authorized in subsection (a)(3) of section 140, as provided in subsection (c) of such section; and

(C) that are sponsored by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under subtitle D) of the participants.

(9) A program in which economically disadvantaged individuals who are between the ages of 16 and 24 years of age, inclusive, are provided with opportunities to perform service that, while enabling such individuals to obtain the education and employment skills necessary to achieve economic self-sufficiency, will help their communities meet—

(A) the housing needs of low-income families and the homeless; and

(B) the need for community facilities in low-income areas.

(10) A national service entrepreneur program that identifies, recruits, and trains gifted young adults of all backgrounds and assists them in designing solutions to community problems.

(11) An intergenerational program that combines students, out-of-school youths, and older adults as participants to provide needed community services, including an intergenerational component for other national service programs described in this subsection.

(12) A program that is administered by a combination of nonprofit organizations located in a low-income area, provides a broad range of services to residents of such area, is governed by a board composed in significant part of low-income individuals, and is intended to provide opportunities for individuals or teams of individuals to engage in community projects in such area that meet unaddressed community and individual needs, including projects that would—

(A) meet the needs of low-income children and youth aged 18 and younger, such as providing after-school "safe-places", including schools, with opportunities for learning and recreation; or

(B) be directed to other important unaddressed needs in such area.

(13) A community service program designed to meet the needs of rural communities, using teams or individual placements to address the development needs of rural communities and to combat rural poverty, including health care, education, and job training.

(14) A program that seeks to eliminate hunger in communities and rural areas through service in projects—

(A) involving food banks, food pantries, and nonprofit organizations that provide food during emergencies;

(B) involving the gleaning of prepared and unprepared food that would otherwise be discarded as unusable so that the usable portion of such food may be donated to food banks, food pantries, and other nonprofit organizations;

(C) seeking to address the long-term causes of hunger through education and the delivery of appropriate services; or

(D) providing training in basic health, nutrition, and life skills necessary to alleviate hunger in communities and rural areas.

(15) Such other national service programs addressing unmet human, educational, environmental, or public safety needs as the Corporation may designate.

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PART III—NATIONAL SERVICE PARTICIPANTS

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SEC. 138.[6] SELECTION OF NATIONAL SERVICE PARTICIPANTS.

(a)–(c) * * *

(d) RECRUITMENT AND PLACEMENT.—The Corporation and each State Commission shall establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved national service positions, which may include positions available under titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The Corporation and State Commissions shall disseminate information regarding available approved national service positions through cooperation with secondary schools, institutions of higher education, employment service offices, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and other State agencies that primarily serve individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to disadvantaged youths and youths who are individuals with disabilities.

(e) NATIONAL LEADERSHIP POOL.—

(1) SELECTION AND TRAINING.—From among individuals recruited under subsection (d), the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training shall be provided by the Corporation directly or through a grant or contract.

(2) EMPHASIS ON CERTAIN INDIVIDUALS.—In selecting individuals to receive leadership training under this subsection, the Corporation shall make special efforts to select individuals who have served—

(A) in the Peace Corps;

(B) as VISTA volunteers;

(C) as participants in national service programs receiving assistance under section 121;

(D) as participants in programs receiving assistance under subtitle D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subtitle; or

[6] 42 U.S.C. 12592.

(E) as members of the Armed Forces of the United States and who were honorably discharged from such service.

(3) ASSIGNMENT.—At the request of a program that receives assistance under the national service laws, the Corporation may assign an individual who receives leadership training under paragraph (1) to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program shall be considered to be a participant of the program.

(f) * * *

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SUBTITLE G—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE [7]

SEC. 191.[8] CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

There is established a Corporation for National and Community Service that shall administer the programs established under this Act. The Corporation shall be a Government corporation, as defined in section 103 of title 5, United States Code.

SEC. 192.[9] BOARD OF DIRECTORS.

(a) COMPOSITION.—

(1) IN GENERAL.—There shall be in the Corporation a Board of Directors (referred to in this subtitle as the "Board") that shall be composed of—

(A) 15 members, including an individual between the ages of 16 and 25 who—

(i) has served in a school-based or community-based service-learning program; or

(ii) is or was a participant or a supervisor in a program;

to be appointed by the President, by and with the advice and consent of the Senate; and

(B) the ex officio nonvoting members described in paragraph (3).

(2) QUALIFICATIONS.—To the maximum extent practicable, the President shall appoint members—

(A) who have extensive experience in volunteer or service activities, which may include programs funded under one of the national service laws, and in State government;

(B) who represent a broad range of viewpoints;

(C) who are experts in the delivery of human, educational, environmental, or public safety services;

(D) so that the Board shall be diverse according to race, ethnicity, age, gender, and disability characteristics; and

(E) so that no more than 50 percent of the appointed members of the Board, plus 1 additional appointed member, are from a single political party.

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[7] Subtitle G was amended and restated by sec. 202(a) of Public Law 103–82 (107 Stat. 873).
[8] 42 U.S.C. 12651.
[9] 42 U.S.C. 12651a.

(3) EX OFFICIO MEMBERS.—The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Defense, the Attorney General, the Director of the Peace Corps, the Administrator of the Environmental Protection Agency, and the Chief Executive Officer shall serve as ex officio nonvoting members of the Board.

* * * * * * *

SUBTITLE H—INVESTMENT FOR QUALITY AND INNOVATION

SEC. 198.[10] ADDITIONAL CORPORATION ACTIVITIES TO SUPPORT NATIONAL SERVICE.

(a)–(g) * * *

(h) PEACE CORPS AND VISTA TRAINING.—The Corporation may provide training assistance to selected individuals who volunteer to serve in the Peace Corps or a program authorized under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The training shall be provided as part of the course of study of the individual at an institution of higher education, shall involve service-learning, and shall cover appropriate skills that the individual will use in the Peace Corps or VISTA.

(i)–(r) * * *

* * * * * * *

SEC. 198D.[11] SPECIAL DEMONSTRATION PROJECT.

(a) SPECIAL DEMONSTRATION PROJECT FOR THE YUKON-KUSKOKWIM DELTA OF ALASKA.—The President may award grants to, and enter into contracts with, organizations to carry out programs that address significant human needs in the Yukon-Kuskokwim delta region of Alaska.

(b) APPLICATION.—

(1) GENERAL REQUIREMENTS.—To be eligible to receive a grant or enter into a contract under subsection (a) with respect to a program, an organization shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

(2) CONTENTS.—The application submitted by the organization shall, at a minimum—

(A) include information describing the manner in which the program will utilize VISTA volunteers, individuals who have served in the Peace Corps, and other qualified persons, in partnership with the local nonprofit organizations known as the Yukon-Kuskokwim Health Corporation and the Alaska Village Council Presidents;

(B) take into consideration—

(i) the primarily noncash economy of the region; and

(ii) the needs and desires of residents of the local communities in the region; and

[10] 42 U.S.C. 12653. Subtitle H was added by sec. 104(c) of Public Law 103–82 (107 Stat. 840).
[11] 42 U.S.C. 12653d.

(C) include specific strategies, developed in cooperation with the Yupi'k speaking population that resides in such communities, for comprehensive and intensive community development for communities in the Yukon-Kuskokwim delta region.

* * * * * * *

7. The Peace Corps—Establishment as Agency Within ACTION

Executive Order 12137, May 16, 1979, 44 F.R. 29023, 22 U.S.C. 2501 note; as amended by Executive Order 12245, October 6, 1980, 45 F.R. 66769; and by Executive Order 12399, December 31, 1982, 48 F.R. 379

By virtue of the authority vested in me by the Peace Corps Act, as amended (22 U.S.C. 2501–2523) and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

1–1. Peace Corps.

1–101. The Peace Corps, which was established as an agency in the Department of State pursuant to Executive Order No. 10924 of March 1, 1961 (26 FR 1789), which was continued in existence in that Department under the Peace Corps Act (the "Act") pursuant to Section 102 of Executive Order No. 11041 of August 6, 1962 (27 FR 7859), and which was transferred to and continued as a component of ACTION by Executive Order No. 11603 of June 30, 1971 (36 FR 12675), shall be an agency within ACTION pursuant to the provisions of this Order.

1–102. All references to the "Director" in Part 1–1 of this Order shall refer to the Director of the Peace Corps for whom provision is made in Section 4(a) of the Act (22 U.S.C. 2503).

1–103. Exclusive of the functions otherwise delegated by or reserved to the President by this Order, and subject to the provisions of this Order, there are hereby delegated to the Director all functions conferred upon the President by the Act and by Section 2(b) of Reorganization Plan No. 1 of 1971.

1–104. The function of determining the portion of living allowances constituting basic compensation, conferred upon the President by Section 201(a) of Public Law 87–293 (26 U.S.C. 912(3)), is hereby delegated to the Director and shall be performed in consultation with the Secretary of the Treasury.

1–105. The functions of prescribing regulations and making determinations (relating to appointment of Peace Corps employees in the Foreign Service System), conferred upon the President by Section 5 of Public Law 89–135 (79 Stat. 551), are hereby delegated to the Director.

1–106. The functions of prescribing conditions, conferred upon the President by the second sentence of Section 5(e), as amended (22 U.S.C. 2504(e)), and the third proviso of Section 6 of the Act (22 U.S.C. 2505) (relating to providing health care in Government facilities) and hereinabove delegated to the Director, shall be exercised in consultation with the head of the United States Government agency responsible for the facility.

1–107. The reports required by Section 11 of the Act, as amended (22 U.S.C. 2510), shall be prepared by the Director and submitted to the Congress through the President.

1–108. Subject to applicable provisions of law, all funds appropriated or otherwise made available to the President for carrying out the provisions of the Act shall be deemed to be allocated without any further action of the President to the Director or to such subordinate officer as the Director may designate. The Director or such officer may allocate or transfer, as appropriate, any of such funds to any United States Government agency or part thereof for obligation or expenditures thereby consistent with applicable law.

1–109. Nothing in this Order shall be deemed to impair or limit the powers or functions vested in the Secretary of State by the Act.

1–110. The negotiation, conclusion, and termination of international agreements pursuant to the Act shall be under the direction of the Secretary of State.

1–111. Any substantial change in policies in effect on the date of this Order for the utilization of the Foreign Service Act of 1946, as amended, pursuant to Section 7 of the Act (22 U.S.C. 2506), shall be coordinated with the Secretary of State.

1–112. The Director shall consult and coordinate with the Director of ACTION to assure that the functions delegated to the Director by this Order are carried out consistently with the functions conferred upon the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 *et seq.*), ("Volunteer Service Act"), Reorganization Plan No. 1 of 1971 and this Order.

1–2. The Peace Corps Advisory Council.[1] * * * [Revoked—1982]

1–3. Reservation of Functions to the President.

1–301. There are hereby excluded from the delegations made by Section 1–1 of this Order the following powers and functions of the President:

(a) All authority conferred by Sections 4(b), 4(c)(2), 4(c)(3), 10(d), and 18 of the Act (22 U.S.C. 2503(b), (C)(2), (C)(3), 2509(d), and 2517).

(b) The authority conferred by Section 4(a) of the Act (22 U.S.C. 2503(a)) to appoint the Director and the Deputy Director of the Peace Corps.

(c) The authority conferred on the President by Section 5(f)(1)(B) of the Act (22 U.S.C. 2504(f)(1)(B)).

(d) The authority conferred by Section 10(f) of the Act (22 U.S.C. 2509(f)) to direct any agency of the United States Government to provide services, facilities, and commodities to officers carrying out functions under the Act.

(e) The authority conferred by Section 19 of the Act (22 U.S.C. 2518) to adopt and alter an official seal or emblem of the Peace Corps.

[1] Sec. 4(k) of Executive Order 12399 revoked sec. 1–2 which had established the Peace Corps Advisory Council.

1–4. Incidental Provisions.

1–401. Persons appointed, employed, or assigned under Section 7(a) of the Act (22 U.S.C. 2506(a)) shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by Section 528 of the Foreign Service Act of 1946 (22 U.S.C. 928) in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1–402. Pursuant to Section 10(d) of the Act (22 U.S.C. 2509(d)), it is hereby determined to be in furtherance of the purposes of the Act that functions authorized thereby may be performed without regard to the applicable laws specified in Sections 1 and 2 of Executive Order No. 11223 of May 12, 1965, and with or without consideration as specified in Section 3 of that Order, but subject to the limitations set forth in that Order.

1–403. As used in this Order, the words "Volunteers," "functions," "United States," and "United States Government agency" shall have the same meanings, respectively, as they have under the Act.

1–5. National Voluntary Action Program.

1–501. The National Voluntary Action Program to encourage and stimulate more widespread and effective voluntary action for solving public domestic problems, established in the Executive Branch of the Government by Section 1 of Executive Order No. 11470 of May 26, 1969, is continued in ACTION. That program shall supplement corresponding action by private and other non-Federal organizations as the National Center for Voluntary Action. As used in this Order, the term "voluntary action" means the contribution or application of nongovernmental resources of all kinds (time, money, goods, services, and skills) by private and other organizations of all types (profit and nonprofit, national and local, occupational, and altruistic) and by individual citizens.

1–6. Direction of ACTION.

1–601. In addition to the functions vested in the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C., Section 4951 *et seq.*), Reorganization Plan No. 1 of 1971, and Section 1–401 of this Order, the Director of ACTION shall:

(a) Encourage local, national and international voluntary activities directed toward the solution or mitigation of community problems.

(b) Provide for the development and operation of a clearinghouse for information on Government programs designed to foster voluntary action.

(c) Initiate proposals for the greater and more effective application of voluntary action in connection with Federal programs, and coordinate, as consistent with law, Federal activities involving such action.

(d) Make grants of seed money, as authorized by law, for stimulating the development or deployment of innovative voluntary action programs directed toward community problems.

1–602. The head of each Federal department and agency, or a designated representative, when so requested by the Director of ACTION or the Director of the Peace Corps, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this Order, the Domestic Volunteer Service Act of 1973 and Reorganization Plan No. 1 of 1971.

1–603. The head of each Federal department agency shall, when so requested by the Director of ACTION, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning voluntary action.

1–604. The head of each Federal department or agency, or a designated representative, shall keep the Director of ACTION informed of proposed budgets, plans, and programs of that department or agency affecting voluntary action programs.

1–605. Under the direction of the President and subject to the responsibilities of the Secretary of State, the Director of ACTION shall be responsible for the general direction of those ACTION functions, which jointly serve ACTION domestic volunteer components and the Peace Corps, and for advising the Director of the Peace Corps to ensure that the functions delegated under this Order to the Director of the Peace Corps are carried out.

1–7. General Provisions.

1–701. Except to the extent that they may be inconsistent with this Order, all determinations, authorizations, regulations, rulings, certifications, orders, directives, contracts, agreements and other actions made, issued or entered into with respect to any function affected by this Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Order shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–702. Except as otherwise expressly provided herein, nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the Executive Branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other agency or head or as abrogating, modifying, or restricting any such function in any manner.

1–703. So much of the personnel, property, records, and unexpended balances or appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions assigned to the Director of the Peace Corps or to the Director of ACTION by this Order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Director of the Peace Corps or the Director of ACTION at such time or times as the Director of the Office of Management and Budget shall direct.

1–704. To the extent permitted by law, such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the provisions of this Order shall be carried out by such agencies as the Director of the Office of Management and Budget shall specify.

1–705. The authority conferred by Sections 1–703 and 1–704 of this Order shall supplement, not limit, the provisions of Section 1–108 of this Order.

1–706. Executive Order Nos. 11041, 11250, 11470 and 11603 are hereby superseded.

1–707. This Order shall become effective May 16, 1979.

8. Providing for the Appointment of Former Peace Corps Volunteers to the Civilian Career Service

Executive Order 11103, April 10, 1963, 28 F.R. 3571, 22 U.S.C. 2504 note; amended by Executive Order 12107, December 28, 1978, 44 F.R. 1055

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403), and section 1753 of the Revised Statutes, and as President of the United States, it is hereby ordered as follows:

Sec. 1. Under such regulations as the Office of Personnel Management[1] may prescribe, the head of any agency in the Executive Branch may appoint in the competitive service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act and who passes such examination as the Office of Personnel Management[1] may prescribe. Any person so appointed shall, upon completion of the prescribed probationary period, acquire a competitive status.

Sec. 2. The head of any agency in the Executive Branch having an established merit system in the excepted service may appoint in such service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act and who passes such examination as such agency head may prescribe.

Sec. 3. Certificates of satisfactory service for the purpose of this Order shall be issued only to persons who have completed a full term of service (approximately two years) under the Peace Corps Act: *Provided,* That such certificates may be issued to persons who have completed a lesser period of satisfactory service if, in the judgment of the Director of the Peace Corps, (1) their service was of sufficient duration to demonstrate their capability to complete satisfactorily a full term, and (2) their failure to complete a full term was due to circumstances beyond their control.

Sec. 4. Any appointment under this Order shall be effected within a period of one year after completion of the appointee's service under the Peace Corps Act: *Provided,* That such period may be extended to not more than three years in the case of persons who, following such service, are engaged in military service, in the pursuit of studies at a recognized institution of higher learning, or in other activities which, in the view of the appointing authority, warrant an extension of such period.

Sec. 5. Any law, Executive Order, or regulation which would disqualify an applicant for appointment in the competitive service or in the excepted service concerned shall also disqualify an applicant for appointment under this Order.

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[1] Executive Order 12107 (44 F.R. 1055) struck out "Civil Service Commission" and inserted in lieu thereof "Office of Personnel Management".

NOTE.—Appendix I lists Public Laws included in *Legislation on Foreign Relations Through 1997*, arranged by Public Law number with corresponding short title or popular name.

APPENDIX I

Public Law No.	Short Title
105–119	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998
105–119	Department of State Appropriations Act, 1998
105–118	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998
105–107	Intelligence Authorization Act for Fiscal Year 1998
105–100	Nicaraguan Adjustment and Central American Relief Act (title II)
105–96	Asian Elephant Conservation Act of 1997
105–86	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998
105–85	National Defense Authorization Act for Fiscal Year 1998
105–83	Department of the Interior and Related Agencies Appropriations Act, 1998
105–56	Department of Defense Appropriations Act, 1998
105–46	Continuing Appropriations, Fiscal Year 1998
105–42	International Dolphin Conservation Program Act
105–18	1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia
104–319	Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996
104–309	Records Relating to Nazi War Crimes
104–297	Sustainable Fisheries Act
104–293	Intelligence Authorization Act for Fiscal Year 1997
104–293	Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII)

APPENDIX I—Continued

Public Law No.	Short Title
104–269	Release of USIA Materials: VOA, Radio Marti Recordings
104–264	Federal Aviation Reauthorization Act of 1996
104–227	Antarctic Science, Tourism, and Conservation Act of 1996
104–208	Omnibus Consolidated Appropriations for Fiscal Year 1997
104–208	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c))
104–203	Most-Favored-Nation Treatment for Cambodia
104–201	National Defense Authorization Act for Fiscal Year 1997
104–201	Defense Against Weapons of Mass Destruction Act of 1996 (title XIV)
104–201	Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV, subtitle A)
104–201	Panama Canal Act Amendments of 1996 (title XXXV, subtitle B)
104–172	Iran and Libya Sanctions Act of 1996
104–171	Most-Favored-Nation Treatment for Romania
104–164	Miscellaneous Amendments and Authorization—FYs 1996 and 1997
104–162	Most-Favored-Nation Treatment for People's Republic of Bulgaria
104–161	Release of USIA Materials: "Fragile Ring of Life"
104–132	Antiterrorism and Effective Death Penalty Act of 1996
104–127	Federal Agriculture Improvement and Reform Act of 1996
104–114	Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996
104–107	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996
104–106	National Defense Authorization Act for Fiscal Year 1996
104–106	Ballistic Missile Defense Act of 1995 (title II, subtitle C)
104–93	Intelligence Authorization Act for Fiscal Year 1996
104–72	Au Pair Extension
104–45	Jerusalem Embassy Act of 1995
104–43	Fisheries Act of 1995
104–43	High Seas Fishing Compliance Act of 1995 (title I)
104–43	Northwest Atlantic Fisheries Convention Act of 1995 (title II)
104–43	Atlantic Tunas Convention Act of 1995 (title III)

APPENDIX I—Continued

Public Law No.	Short Title
104–43	Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V)
104–43	High Seas Driftnet Fishing Moratorium Protection Act (title VI)
104–43	Yukon River Salmon Act of 1995 (title VII)Act for Fiscal Year 1997
104–6	Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995
104–6	Mexican Debt Disclosure Act of 1995 (title IV)
103–465	Uruguay Rounds Agreements Act
103–465	Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a))
103–447	International Narcotics Control Corrections Act of 1994
103–447	NATO Participation Act of 1994 (title II)
103–423	United States Policy Toward Haiti
103–416	Visa for Officials of Taiwan
103–392	Jobs Through Trade Expansion Act of 1994
103–391	Rhinoceros and Tiger Conservation Act of 1994
103–381	African Conflict Resolution Act
103–379	Irish-American Heritage Month, 1995–1996
103–378	Transfer of Naval Vessels to Certain Foreign Countries
103–372	To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974
103–337	National Defense Authorization Act for Fiscal Year 1995
103–306	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995
103–295	Transfer of Naval Vessels to Certain Foreign Countries
103–294	Helsinki Human Rights Day
103–236	Foreign Relations Authorization Act, Fiscal Years 1994 and 1995
103–236	Mike Mansfield Fellowship Act (title II, part C)
103–236	United States International Broadcasting Act of 1994 (title III)
103–236	Spoils of War Act of 1994 (title V, part B)
103–236	Anti-Economic Discrimination Act of 1994 (title V, part C)
103–236	Cambodian Genocide Justice Act (title V, part D)
103–236	Middle East Peace Facilitation Act of 1994 (title V, part E)
103–236	Arms Control and Nonproliferation Act of 1994 (title VII, part A)

APPENDIX I—Continued

Public Law No.	Short Title
103–236	Nuclear Proliferation Prevention Act of 1994 (title VIII)
103–236	Protection and Reduction of Government Secrecy Act (title IX)
103–206	Coast Guard Authorization Act of 1993
103–199	Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)
103–182	North American Free Trade Agreement Implementation Act
103–174	Transfer of Naval Vessels to Certain Foreign Countries
103–160	National Defense Authorization Act for Fiscal Year 1994
103–160	Cooperative Threat Reduction Act of 1993 (title XII)
103–160	Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII)
103–160	National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D)
103–160	Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV)
103–158	Act to Honor the Victims of the Bombing of Panam Flight 103
103–149	South African Democratic Transition Support Act of 1993
103–139	Department of Defense Appropriations Act, 1994
103–133	Nondiscriminatory Treatment Toward Products of Romania
103–125	Middle East Peace Facilitation Act of 1993
103–87	Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1994
103–87	Supplemental Appropriations for the New Independent States of the Former Soviet Union Act, 1993 (title VI)
103–54	Transfer of Naval Vessels to Certain Foreign Countries
102–588	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993
102–587	Oceans Act of 1992
102–587	North Pacific Anadromous Stocks Convention Act of 1992 (title VIII)
102–582	High Seas Driftnet Fisheries Enforcement Act
102–582	Central Bering Sea Fisheries Enforcement Act of 1992 (title III)

APPENDIX I—Continued

Public Law No.	Short Title
102–567	North Pacific Anadromous Stocks Act of 1992 (title VIII)
102–565	Peace Corps Authorization for Fiscal Year 1993
102–549	Jobs Through Exports Act of 1992
102–549	Aid, Trade, and Competitiveness Act of 1992 (title III)
102–549	Enterprise for the Americas Act of 1992 (title VI)
102–532	Enterprise for the Americas Initiative Act of 1992
102–523	International Dolphin Conservation Act of 1992
102–511	Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act)
102–509	Soviet Scientists Immigration Act of 1992
102–486	Energy Policy Act of 1992
102–484	National Defense Authorization Act for Fiscal Year 1993
102–484	Former Soviet Union Demilitarization Act of 1992 (title XIV)
102–484	Weapons of Mass Destruction Control Act of 1992 (title XV)
102–484	Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI)
102–484	Cuban Democracy Act of 1992 (title XVII)
102–484	Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV)
102–454	Distribution of USIA Materials
102–450	Asian/Pacific American Heritage Month—Designation
102–429	Export Enhancement Act of 1992
102–420	Withdrawal of MFN From Serbia and Montenegro
102–404	Chinese Student Protection Act of 1992
102–391	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993
102–396	Department of Defense Appropriations Act, 1993
102–383	United States-Hong Kong Policy Act of 1992
102–372	Tourism Policy and Export Promotion Act of 1992
102–363	Nondiscriminatory Treatment Toward Products of Albania
102–311	International Peacekeeping Act of 1992
102–274	Horn of Africa Recovery and Food Security Act
102–270	Peace Process in Liberia
102–256	Torture Victim Protection Act of 1991
102–247	Omnibus Insular Areas Act of 1992
102–237	Food, Agriculture, Conservation, and Trade Act Amendments of 1991

APPENDIX I—Continued

Public Law No.	Short Title
102–228	Conventional Forces in Europe Treaty Implementation Act of 1991
102–228	Soviet Nuclear Threat Reduction Act of 1991 (title II)
102–197	Most-Favored Nation Treatment for the Union of Soviet Socialist Republics
102–195	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992
102–190	National Defense Authorization Act for Fiscal Years 1992 and 1993
102–190	Missile Defense Act of 1991 (title II, part C)
102–190	Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV)
102–183	David L. Boren National Security Education Act of 1991 (title VIII)
102–182	Termination of Trade Restrictions to Czechoslovakia and Hungary
102–182	Andean Trade Preference Act (title II)
102–182	Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III)
102–158	Most-Favored Nation Treatment for People's Republic of Bulgaria
102–157	Most-Favored Nation Treatment for Mongolian People's Republic
102–138	Foreign Relations Authorization Act, Fiscal Years 1992 and 1993
102–138	North/South Center Act of 1991 (sec. 208)
102–21	Emergency Supplemental Assistance for Israel Act of 1991
102–20	Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991
102–1	Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678
101–649	Immigration Act of 1990
101–647	Crime Control Act of 1990
101–646	Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990
101–627	Fishery Conservation Amendments of 1990
101–627	Dolphin Protection Consumer Information Act (title IX)
101–624	Food, Agriculture, Conservation, and Trade Act of 1990
101–624	Agricultural Development and Trade Act of 1990 (title XV)
101–624	Global Climate Change Prevention Act of 1990 (title XXIV)
101–623	International Narcotics Control Act of 1990
101–620	Protection of Antarctica

APPENDIX I—Continued

Public Law No.	Short Title
101–611	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991
101–610	National and Community Service Act of 1990
101–606	Global Change Research Act of 1990
101–606	International Cooperation in Global Change Research Act of 1990 (title II)
101–604	Aviation Security Improvement Act of 1990
101–594	Antarctic Protection Act of 1990
101–549	Clean Air Act Amendments
101–541	Most-Favored-Nation Treatment for Czechoslovakia
101–533	Foreign Direct Investment and International Financial Date Improvements Act of 1990
101–513	Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991
101–513	European Bank for Reconstruction and Development Act (sec. 562(c))
101–513	Iraq Sanctions Act of 1990 (secs. 586–586J)
101–513	International Forestry Cooperation Act of 1990 (title VI)
101–511	Department of Defense Appropriations Act, 1991
101–510	National Defense Authorization Act for Fiscal Year 1991
101–510	Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV)
101–508	Omnibus Budget Reconciliation Act of 1990
101–508	Budget Enforcement Act of 1990 (title XIII)
101–454	Eisenhower Exchange Fellowship Act of 1990
101–454	Fascell Fellowship Amendments Act of 1990 (sec. 9)
101–438	Rio Grande American Canal Extension Act of 1990
101–382	Customs and Trade Act of 1990
101–382	Caribbean Basin Economic Recovery Expansion Act of 1990 (title II)
101–382	Forest Resources Conservation and Shortage Relief Act of 1990 (title IV)
101–380	Oil Pollution Act of 1990
101–328	National Space Council Authorization Act of 1990
101–298	Biological Weapons Anti-Terrorism Act of 1989
101–246	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991
101–246	PLO Commitments Compliance Act of 1989 (title VIII)
101–243	Urgent Assistance for Democracy in Panama Act of 1990
101–240	International Development and Finance Act of 1989

APPENDIX I—Continued

Public Law No.	Short Title
101–240	Foreign Debt Reserving Act of 1989 (title IV)
101–240	Global Environmental Protection Assistance Act of 1989 (title VII)
101–231	International Narcotics Control Act of 1989
101–219	Implementation of Compact of Free Association With Palau
101–216	Arms Control and Disarmament Amendments Act of 1989
101–215	Survival Assistance for Victims of Civil Strife in Central America
101–189	National Defense Authorization Act for Fiscal Years 1990 and 1991
101–179	Support for East European Democracy (SEED) Act of 1989
101–167	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990
101–162	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990
101–62	Implementing Agreement for Vienna Convention on Diplomatic Relations
100–690	International Narcotics Control Act of 1988 (title IV)
100–685	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989
100–629	U.S.-U.S.S.R. Fishing Agreement
100–576	Bangladesh Disaster Assistance Act of 1988
100–530	International Cooperation to Protect Biological Diversity
100–478	African Elephant Conservation Act (title II)
100–465	Rio Grande Pollution Correction Act of 1987
100–463	Department of Defense Appropriations Act, 1989
100–461	Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference)
100–461	Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference)
100–456	National Defense Authorization Act, Fiscal Year 1989
100–449	United States-Canada Free Trade Agreement Implementation Act of 1988
100–418	Omnibus Trade and Competitiveness Act of 1988
100–418	Telecommunications Trade Act of 1988 (title I, subtitle C, part 4)
100–418	Export Enhancement Act 1988 (title II)
100–418	Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II)

APPENDIX I—Continued

Public Law No.	Short Title
100–418	American Aid to Poland Act of 1988 (title II, subtitle B, part II)
100–418	Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II)
100–418	Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A)
100–418	International Debt Management Act of 1988 (title III, subtitle B)
100–418	Multilateral Development Banks Procurement Act (title III, subtitle C)
100–418	Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D)
100–418	Primary Dealers Act of 1988 (title III, subtitle F)
100–418	Financial Reports Act of 1988 (title III, subtitle G)
100–418	Agricultural Competitiveness and Trade Act of 1988 (title IV)
100–418	Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G)
100–418	Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I)
100–418	Competitiveness Policy Council Act (title V, part I, subtitle C)
100–418	Small Business International Trade and Competitiveness Act (title VII)
100–418	Foreign Shipping Practices Act of 1988 (title X)
100–393	Dire Emergency Supplemental Appropriations Act, 1988
100–373	International Energy Emergency Authorities: Extension
100–350	German Democratic Republic Fishery Agreement
100–330	South Pacific Tuna Act of 1988
100–300	International Child Abduction Remedies Act
100–276	Central American Peace Assistance
100–220	United States-Japan Fishery Agreement Approval Act of 1987
100–220	Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV)
100–213	Arms Control and Disarmament Amendments Act of 1987
100–204	Foreign Relations Authorization Act, Fiscal Years 1988 and 1989
100–204	United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II)
100–204	Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)
100–204	Anti-Terrorism Act of 1987 (title X)

APPENDIX I—Continued

Public Law No.	Short Title
100–204	Global Climate Protection Act of 1987 (title XI)
100–202	Continuing Appropriations, Fiscal Year 1988
100–202	Department of State Appropriations Act, 1988 (sec. 101(a), title III)
100–202	Cuban Political Prisoners and Immigrants (sec. 101(a), title VII)
100–202	Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII)
100–202	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e))
100–202	Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV)
100–180	National Defense Authorization Act for Fiscal Years 1988 and 1989
100–147	National Aeronautics and Space Administration Authorization Act of 1988
100–113	Federal Triangle Development Act
100–66	United States-Korea Fishery Agreement
99–661	National Defense Authorization Act, Fiscal Year 1987
99–661	Department of Defense Authorization Act, 1987 (Division A)
99–658	Approval of the Compact of Free Association With the Government of Palau
99–630	Humpback Whales Wildlife Sanctuary (West Indies)
99–603	Immigration Reform and Control Act of 1986
99–570	International Narcotics Control Act of 1986 (title II)
99–529	Special Foreign Assistance Act of 1986
99–513	R.M.S. Titanic Maritime Memorial Act of 1986
99–498	Higher Education Amendments of 1986
99–475	Release of USIA Materials to Museums
99–472	Export-Import Bank Act Amendments of 1986
99–415	Anglo-Irish Agreement Support Act of 1986
99–399	Omnibus Diplomatic Security and Antiterrorism Act of 1986
99–399	Diplomatic Security Act (titles I–IV)
99–399	Victims of Terrorism Compensation Act (title VIII)
99–399	International Maritime and Port Security Act (title IX)
99–399	Fascell Fellowship Act (title X)
99–239	Compact of Free Association Act of 1985
99–198	Food Security Act of 1985
99–198	Food for Progress Act of 1985 (sec. 1110)
99–190	Further Continuing Appropriations, 1985

APPENDIX I—Continued

Public Law No.	Short Title
99–190	Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference)
99–180	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986
99–177	Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]
99–162	Sales of Arms to Jordan
99–145	Department of Defense Authorization Act, 1986
99–93	Foreign Relations Authorization Act, Fiscal Years 1986 and 1987
99–93	United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II)
99–93	Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)
99–93	Iran Claims Settlement (title V)
99–93	United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI)
99–93	Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)
99–88	Supplemental Appropriations Act, 1985
99–88	Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV)
99–85	Authorization for an Improved U.S./Soviet Direct Communications Link
99–83	International Security and Development Cooperation Act of 1985
99–83	International Narcotics Control Act of 1985 (title VI)
99–83	Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI)
99–64	Export Administration Amendments Act of 1985
99–47	United States-Israel Free Trade Area Implementation Act of 1985
99–8	African Famine Relief and Recovery Act of 1985
99–5	Pacific Salmon Treaty Act of 1985
98–623	Governing International Fishery Agreements With Iceland and the European Economic Community (title I)
98–623	Antarctic Marine Living Resources Convention Act of 1984 (title III)
98–618	Intelligence Authorization Act for Fiscal Year 1985
98–573	Trade and Tariff Act of 1984
98–573	International Trade and Investment Act (title III)

APPENDIX I—Continued

Public Law No.	Short Title
98–573	Generalized System of Preferences Renewal Act of 1984 (title V)
98–573	Steel Import Stabilization Act (title VIII)
98–573	Wine Equity and Export Expansion Act of 1984 (title IX)
98–562	Cooperative East-West Ventures in Space
98–533	1984 Act to Combat International Terrorism
98–525	Department of Defense Authorization Act, 1985
98–525	United States Institute for Peace Act (title XVII)
98–473	Continuing Appropriations, 1985
98–473	Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference)
98–473	President's Emergency Food Assistance Act of 1984 (title III)
98–447	United States Government Opposition to the Practice of Torture
98–445	Eastern Pacific Tuna Licensing Act of 1984
98–373	Arctic Research and Policy Act of 1984 (title I)
98–373	National Critical Materials Act of 1984 (title II)
98–266	Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland
98–258	Agricultural Programs Adjustment Act of 1984
98–258	Agricultural Exports (title V)
98–198	Child Health Revolution
98–181	Supplemental Appropriations Act, 1984
98–181	Trade and Development Enhancement Act of 1983 (title VI, part C)
98–181	International Lending Supervision Act of 1983 (title IX)
98–181	Multilateral Development Banks: Sense of Congress (title X)
98–164	Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X)
98–164	United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II)
98–164	Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)
98–164	Asia Foundation Act (title IV)
98–164	National Endowment for Democracy Act (title V)
98–164	Foreign Missions Amendments Act (title VI)
98–164	International Environmental Protection Act of 1983 (title VII)
98–164	Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII)

APPENDIX I—Continued

Public Law No.	Short Title
98–164	United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX)
98–151	Continuing Resolution, 1984
98–151	Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1))
98–151	International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2))
98–119	Multinational Force in Lebanon Resolution
98–111	Radio Broadcasting to Cuba Act
98–94	Department of Defense Authorization Act, 1984
98–67	Caribbean Basin Economic Recovery Act (title II)
98–43	Lebanon Emergency Assistance Act of 1983
97–446	Convention on Cultural Property Implementation Act (title III)
97–425	Nuclear Waste Policy Act of 1982
97–418	Protection of Foreign Missions
97–389	Fisheries Amendments of 1982
97–389	Atlantic Salmon Convention Act of 1982 (title III)
97–389	Governing International Fishery Agreements with Japan and Spain (title IV)
97–342	Transfer of Naval Vessels to Foreign Governments
97–325	International Carriage of Perishable Foodstuffs Act
97–290	Export Trading Company Act of 1982 (title I)
97–290	Bank Export Services Act (title II)
97–252	Department of Defense Authorization Act, 1983
97–241	Department of State Authorization Act, Fiscal Years 1982 and 1983
97–241	Foreign Missions Act (title II)
97–241	United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III)
97–241	Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)
97–229	Energy Emergency Preparedness Act of 1982
97–145	Export Administration Amendments Act of 1981
97–132	Multinational Force and Observers Participation Resolution
97–127	Czechoslovakian Claims Settlement Act of 1981
97–113	International Security and Development Cooperation Act of 1981
97–98	Agriculture and Food Act of 1981
97–98	Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)
97–35	African Development Bank Act (title XIII, subtitle B, part 3)

APPENDIX I—Continued

Public Law No.	Short Title
96–599	International Coffee Agreement Act of 1980
96–561	American Fisheries Promotion Act (title II)
96–533	International Security and Development Cooperation Act of 1980
96–533	African Development Foundation Act (title V)
96–494	Agriculture Act of 1980
96–494	Agricultural Trade Suspension Adjustment Act of 1980 (title II)
96–494	Food Security Commodity Reserve Act of 1996 (title III)
96–487	Alaska National Interests Lands Conservation Act
96–478	Act to Prevent Pollution from Ships
96–465	Foreign Service Act of 1980
96–449	Hostage Relief Act of 1980
96–422	Refugee Education Assistance Act of 1980
96–389	Bretton Woods Agreements Act Amendments, 1980
96–339	Atlantic Tunas Convention Act of 1975, Appropriation Authorization
96–323	North Atlantic Treaty Organization Mutual Support Act of 1979
96–283	Deep Seabed Hard Mineral Resources Act
96–283	Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV)
96–280	Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation
96–271	International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981
96–259	Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund
96–236	International Sugar Agreement, 1977, Implementation
96–212	Refugee Act of 1980
96–175	Strategic and Critical Materials Transaction Authorization Act of 1979
96–133	Energy Policy and Conservation Act Amendments
96–92	International Security Assistance Act of 1979
96–72	Export Administration Act of 1979
96–70	Panama Canal Act of 1979
96–60	Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I)
96–60	International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II)

APPENDIX I—Continued

Public Law No.	Short Title
96–53	International Development Cooperation Act of 1979
96–39	Trade Agreements Act of 1979
96–35	Special International Security Assistance Act of 1979
96–9	Reaffirming North Atlantic Alliance—United States Commitment
96–8	Taiwan Relations Act
95–630	Financial Institutions Regulatory and Interest Rate Control Act of 1978
95–630	Export-Import Bank Act Amendments of 1978 (title XIX)
95–561	Education Amendments of 1978
95–561	National Academy of Peace and Conflict Resolution (title XV, part B)
95–511	Foreign Intelligence Surveillance Act of 1978
95–501	Agricultural Trade Act of 1978
95–485	Department of Defense Appropriation Authorization Act, 1979
95–452	Inspector General Act of 1978
95–435	Bretton Woods Agreements Act Amendments, 1978
95–426	Foreign Relations Authorization Act, Fiscal Year 1979
95–426	International Communication Agency Authorization for Fiscal Year 1979 (title II)
95–424	International Development and Food Assistance Act of 1978
95–393	Diplomatic Relations Act
95–384	International Security Assistance Act of 1978
95–287	Reaffirming the Unity of the North Atlantic Alliance Commitment
95–242	Nuclear Non-Proliferation Act of 1978
95–238	Department of Energy Act of 1978
95–223	International Emergency Economic Powers Act (title II)
95–213	Foreign Corrupt Practices Act of 1977 (title I)
95–118	International Financial Institutions Act
95–113	Food and Agriculture Act of 1977
95–105	Foreign Relations Authorization Act, Fiscal Year 1978
95–105	United States Information Agency Authorization for Fiscal Year 1978 (title II)
95–92	International Security Assistance Act of 1977
95–88	International Development and Food Assistance Act of 1977
95–6	Fishery Conservation Zone Transition Act
94–583	Foreign Sovereign Immunities Act of 1976
94–472	International Investment and Trade in Services Survey Act

APPENDIX I—Continued

Public Law No.	Short Title
94–412	National Emergencies Act
94–350	Foreign Relations Authorization Act, Fiscal Year 1977
94–350	United States Information Agency Authorization for Fiscal Year 1977 (title II)
94–350	Foreign Service Retirement Amendments of 1976 (title V)
94–329	International Security Assistance and Arms Export Control Act of 1976
94–304	Establishing a Commission on Security and Cooperation in Europe
94–302	African Development Fund Act (title II)
94–265	Magnuson Fishery Conservation and Management Act of 1976
94–265	Driftnet Act Amendments of 1990 (sec. 206)
94–163	Energy Policy and Conservation Act
94–161	International Development and Food Assistance Act of 1975
94–141	Foreign Relations Authorization Act, Fiscal Year 1976
94–118	Japan-United States Friendship Act
94–110	Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai
94–70	Atlantic Tunas Convention Act of 1975
94–39	National Aeronautics and Space Administration Authorization Act, 1976
93–627	Deepwater Port Act of 1974
93–618	Trade Act of 1974
93–618	Narcotics Control Trade Act (title VIII)
93–559	Foreign Assistance Act of 1974
93–479	Foreign Investment Study Act of 1974
93–475	State Department/USIA Authorization Act, Fiscal Year 1975
93–366	Antihijacking Act of 1974
93–365	Department of Defense Appropriation Authorization Act, 1975
93–248	Intervention on the High Seas Act
93–205	Endangered Species Act of 1973
93–199	Emergency Security Assistance Act of 1973
93–189	Foreign Assistance Act of 1973
93–188	United Nations Environment Program Participation Act of 1973
93–168	USIA Appropriations Authorization Act of 1973
93–153	Trans-Alaska Pipeline Authorization Act
93–148	War Powers Resolution
93–129	Board for International Broadcasting Act of 1973
93–126	Department of State Appropriations Authorization Act of 1973

APPENDIX I—Continued

Public Law No.	Short Title
93–110	Par Value Modification Act—Foreign Currency Reports (title II)
92–544	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973
92–522	Marine Mammal Protection Act of 1972
92–499	Act to Extend Diplomatic Privileges to the Commission of the European Communities
92–403	Case Act—Transmittal of International Agreements
92–352	Foreign Relations Authorization Act of 1972
92–268	Par Value Modification Act
92–257	Trust Territory of the Pacific Islands Act
92–226	Foreign Assistance Act of 1971
92–39	Micronesian Claims Act of 1971
91–672	Foreign Military Sales Act Amendments, 1971
91–652	Special Foreign Assistance Act of 1971
91–441	Armed Forces Appropriation Authorization, 1971
91–269	United States Recognition and Participation in International Expositions
91–175	Foreign Assistance Act of 1969, as amended
90–629	Arms Export Control Act
90–554	Foreign Assistance Act of 1968
90–553	International Center Act
90–390	Export Loans—Assistance
90–349	Special Drawing Rights Act
90–137	Foreign Assistance Act of 1967
89–732	Cuban Refugee Adjustment Act
89–673	Foreign Gifts and Decorations Act of 1966
89–583	Foreign Assistance Act of 1966
89–532	Convention on the Settlement of Investment Disputes Act of 1966
89–486	Foreign Agents Registration Act Amendments
89–369	Asian Development Bank Act
89–296	Ryukyu Islands Claims Settlement Act
89–259	Cultural Objects—Importation for Temporary Display
89–171	Foreign Assistance Act of 1965
89–134	Peace Corps Act Amendments
88–633	Foreign Assistance Act of 1964
88–408	Tonkin Gulf Resolution
88–205	Foreign Assistance Act of 1963
87–826	Collection and Publication of Foreign Commerce and Trade Statistics
87–794	Trade Expansion Act of 1962
87–733	Cuban Resolution
87–565	Foreign Assistance Act of 1962
87–510	Migration and Refugee Assistance Act of 1962
87–297	Arms Control and Disarmament Act

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Public Law No.	Short Title
87–293	Peace Corps Act
87–256	Mutual Educational and Cultural Exchange Act of 1961
87–195	Foreign Assistance Act of 1961
87–125	General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962
86–735	Latin American Development Act
86–628	Legislative Branch Appropriation Act, 1961
86–565	International Development Association Act
86–472	Mutual Security Act of 1960
86–472	Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII)
86–420	Mexico-United States Interparliamentary Group
86–147	Inter-American Development Bank Act
86–108	Mutual Security Act of 1959
86–42	Canada-United States Interparliamentary Group
85–931	Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment
85–846	EURATOM Cooperation Act of 1958
85–568	National Aeronautics and Space Act of 1958
85–474	Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959
85–177	International Atomic Energy Agency Participation Act of 1957
85–7	Resolution To Promote Peace and Stability in the Middle East
84–885	State Department Basic Authorities Act of 1956
84–689	United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution
84–350	International Finance Corporation Act
83–703	Atomic Energy Act of 1954
83–680	Fisherman's Protective Act of 1967
83–665	Mutual Security Act of 1954
83–480	Agricultural Trade Development and Assistance Act of 1954
83–451	Civil Government for the Trust Territory of the Pacific Islands
82–486	Extending Certain Privileges to Representatives of Organization of American States
82–414	Immigration and Nationality Act
81–764	Tuna Conventions Act of 1950
81–676	Whaling Convention Act of 1949
81–507	National Science Foundation Act of 1950
81–455	International Claims Settlement Act of 1949
81–439	Agricultural Act of 1949

APPENDIX I—Continued

Public Law No.	Short Title
80–772	Act of June 25, 1948
80–772	Logan Act—Private Correspondence With Foreign Governments
80–772	Johnson Act—Financial Transactions With Foreign Governments
80–402	United States Information and Educational Exchange Act of 1948
80–357	United Nations Headquarters Agreement Act
80–253	National Security Council
79–547	Act of July 25, 1946
79–291	International Organizations Immunities Act
79–264	United Nations Participation Act of 1945
79–173	Export-Import Bank Act of 1945
79–171	Bretton Woods Agreements Act
76–54	Neutrality Act of 1939
75–583	Foreign Agents Registration Act of 1938
75–543	Act of May 25, 1938
71–361	Tariff Act of 1930
69–186	Foreign Service Buildings Act, 1926
65–91	Trading With the Enemy Act

NOTE.—Appendix II lists Public Laws included in *Legislation on Foreign Relations Through 1997*, arranged alphabetically by short title or popular name with corresponding Public Law number.

APPENDIX II

Short Title	Public Law No.
Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)	103–199
Act of May 25, 1938	75–543
Act of July 25, 1946	79–547
Act of June 25, 1948	80–772
1984 Act to Combat International Terrorism	98–533
Act to Extend Diplomatic Privileges to the Commission of the European Communities	92–499
Act to Honor the Victims of the Bombing of Panam Flight	103–158
Act to Prevent Pollution from Ships	96–478
African Conflict Resolution Act	103–381
African Development Bank Act (title XIII, subtitle B, part 3)	97–35
African Development Foundation Act (title V)	96–533
African Development Fund Act (title II)	94–302
African Elephant Conservation Act (title II)	100–478
African Famine Relief and Recovery Act of 1985	99–8
Agricultural Act of 1949	81–439
Agricultural Competitiveness and Trade Act of 1988 (title IV)	100–418
Agricultural Development and Trade Act of 1990 (title XV)	101–624
Agricultural Exports (title V)	98–258
Agricultural Programs Adjustment Act of 1984	98–258
Agricultural Trade Act of 1978	95–501
Agricultural Trade Development and Assistance Act of 1954	83–480
Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment	85–931
Agricultural Trade Suspension Adjustment Act of 1980 (title II)	96–494
Agriculture and Food Act of 1981	97–98

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Short Title	Public Law No.
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998	105–86
Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)	97–98
Aid, Trade, and Competitiveness Act of 1992 (title III)	102–549
Alaska National Interests Lands Conservation Act	96–487
American Aid to Poland Act of 1988 (title II, subtitle B, part II)	100–418
American Fisheries Promotion Act (title II)	96–561
Andean Trade Preference Act (title II)	102–182
Anglo-Irish Agreement Support Act of 1986	99–415
Antarctic Marine Living Resources Convention Act of 1984 (title III)	98–623
Antarctic Protection Act of 1990	101–594
Antarctic Science, Tourism, and Conservation Act of 1996	104–227
Anti-Economic Discrimination Act of 1994 (title V, part C)	103–236
Anti-Terrorism Act of 1987 (title X)	100–204
Antiterrorism and Effective Death Penalty Act of 1996	104–132
Antihijacking Act of 1974	93–366
Approval of the Compact of Free Association With the Government of Palau	99–658
Arctic Research and Policy Act of 1984 (title I)	98–373
Armed Forces Appropriation Authorization, 1971	91–441
Arms Control and Disarmament Act	87–297
Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)	99–93
Arms Control and Disarmament Amendments Act of 1987	100–213
Arms Control and Disarmament Amendments Act of 1989	101–216
Arms Control and Nonproliferation Act of 1994 (title VII, part A)	103–236
Arms Export Control Act	90–629
Asia Foundation Act (title IV)	98–164
Asian Development Bank Act	89–369
Asian Elephant Conservation Act of 1997	105–96
Asian/Pacific American Heritage Month—Designation	102–450
Atlantic Salmon Convention Act of 1982 (title III)	97–389
Atlantic Tunas Convention Act of 1975	94–70
Atlantic Tunas Convention Act of 1975, Appropriation Authorization	96–339

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Short Title	Public Law No.
Atlantic Tunas Convention Act of 1995 (title III)	104–43
Atlantic Tunas Convention Authorization Act of 1995 (title III)	104–43
Atomic Energy Act of 1954	83–703
Au Pair Extension	104–72
Authorization for an Improved U.S./Soviet Direct Communications Link	99–85
Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678	102–1
Aviation Security Improvement Act of 1990	101–604
Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]	99–177
Ballistic Missile Defense Act of 1995 (title II, subtitle C)	104–106
Bangladesh Disaster Assistance Act of 1988	100–576
Bank Export Services Act (title II)	97–290
Biological Weapons Anti-Terrorism Act of 1989	101–298
Board for International Broadcasting Act of 1973	93–129
Board for International Broadcasting Appropriations, 1988 (sec. 101(a), title V)	100–202
Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)	98–164
Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)	97–241
Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)	99–93
Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)	100–204
Bretton Woods Agreements Act	79–171
Bretton Woods Agreements Act Amendments, 1978	95–435
Bretton Woods Agreements Act Amendments, 1980	96–389
Budget Enforcement Act of 1990 (title XIII)	101–508
Cambodian Genocide Justice Act (title V, part D)	103–236
Canada-United States Interparliamentary Group	86–42
Caribbean Basin Economic Recovery Act (title II)	98–67
Caribbean Basin Economic Recovery Expansion Act of 1990 (title II)	101–382
Case Act—Transmittal of International Agreements	92–403
Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII)	86–472

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Short Title	Public Law No.
Central American Peace Assistance	100–276
Central Bering Sea Fisheries Enforcement Act of 1992 (title III)	102–582
Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III)	102–182
Child Health Revolution	98–198
Chinese Student Protection Act of 1992	102–404
Civil Government for the Trust Territory of the Pacific Islands	83–451
Clean Air Act Amendments	101–549
Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland	98–266
Coast Guard Authorization Act of 1993	103–206
Collection and Publication of Foreign Commerce and Trade Statistics	87–826
Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII)	104–293
Compact of Free Association Act of 1985	99–239
Competitiveness Policy Council Act (title V, part I, subtitle C)	100–418
Continuing Appropriations, 1985	98–473
Continuing Appropriations, Fiscal Year 1988	100–202
Continuing Resolution, 1984	98–151
Convention on Cultural Property Implementation Act (title III)	97–446
Convention on the Settlement of Investment Disputes Act of 1966	89–532
Conventional Forces in Europe Treaty Implementation Act of 1991	102–228
Cooperative Threat Reduction Act of 1993 (title XII)	103–160
Cooperative East-West Ventures in Space	98–562
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Art—Article
EO—Executive Order
fn—Footnote
FR—Federal Register
H Con Res—House Concurrent Resolution
HR—House Bill
H Res—House Resolution
PL—Public Law
S—Senate Bill
S Con Res—Senate Concurrent Resolution
S Res—Senate Resolution
Sec—Section
Stat—United States Statutes at Large
USC—United States Code

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

GLOSSARY OF TERMS USED IN THE INDEX

ABM	Anti-Ballistic Missile
ACDA	Arms Control and Disarmament Agency
ADB	Asian Development Bank
AFDB	African Development Bank
AFDF	African Development Fund
AID	Agency for International Development
EEC	European Economic Community
EBRD	European Bank of Reconstruction and Development
FAO	Food and Agriculture Organization
FCC	Federal Communications Commission
GAO	General Accounting Office
IADB	Inter-American Development Bank
IAEA	International Atomic Energy Agency
ICA	International Communication Agency
IDA	International Development Association
IDCA	International Development Cooperation Agency
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IFIs	International Financial Institutions
IMF	International Monetary Fund
MDBs	Multilateral Development Banks
MIA	Missing-in-Action
NADB	North American Development Bank
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
OPIC	Overseas Private Investment Corporation
POW	Prisoners-of-War
SALT	Strategic Arms Limitation Talk
SDAF	Special Defense Acquisition Fund
SEATO	Southeast Asia Treaty Organization
U.N.	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific, and Cultural Organization
USIA	United States Information Agency

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